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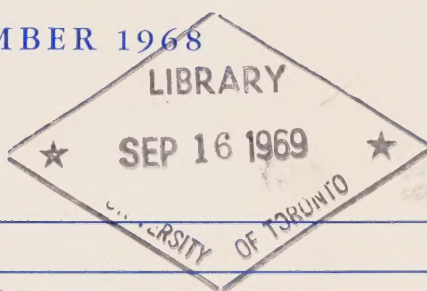
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# LABOUR STANDARDS IN CANADA

DECEMBER 1968



CANADA DEPARTMENT OF LABOUR

Legislation Branch

Hon. Bryce Mackasey / Minister

J. D. Love / Deputy Minister





CANADA

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LEGISLATION BRANCH

HON. BRYCE MACKASEY  
MINISTER

J. D. LOVE  
DEPUTY MINISTER

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Price 75 cents

Catalogue No. L2-7/1968

*Price subject to change without notice*

Queen's Printer, Ottawa, Canada

1969



## FOREWORD

This publication, issued annually, sets out the standards that are in effect under federal and provincial labour laws with respect to child labour, minimum wages, equal pay for equal work, hours of work, weekly rest-day, annual vacations with pay, public holidays, fair employment practices, notice of termination of employment, maternity protection and workmen's compensation. The standards set by labour Ordinances of the Yukon and Northwest Territories are included.

"Standards" as used in the title mean the minimum standards required by law. These standards are set out in tables, where appropriate, and in other instances in narrative form. Changes in labour standards in 1968 are summarized, beginning at page 9.

The publication was prepared by Miss Evelyn Woolner, Chief of the Legislative Research Division of the Branch.

EDITH LORENTSEN,  
*Director,*  
Legislation Branch,  
Canada Department of Labour.

December 31, 1968.



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## DIVISION OF LEGISLATIVE POWERS

Since both the Parliament of Canada and the provincial legislatures have power to enact labour laws and each is sovereign in its own jurisdiction, it is important for the user of this publication to be clear about the field of authority of each.

In the division of legislative powers between Parliament and the legislatures of the provinces in matters of labour legislation, the provincial legislatures have the major jurisdiction and Parliament has authority only in a limited field.

The right to make laws concerning labour in Canada stems from Sections 91 and 92 of the British North America Act and from court interpretations of these sections.

Provincial authority flows principally from the fact that Section 92 of the B.N.A. Act gives the provinces exclusive power to make laws regarding "property and civil rights in the province". The right to contract is a civil right, and labour laws, which impose conditions on the rights of the employer and employee to enter into a contract of employment (e.g., a minimum age for employment, a minimum rate of wages, limits on working hours), are laws in relation to civil rights. The provinces also have exclusive legislative jurisdiction over "local works and undertakings".

The power of Parliament to legislate in labour matters is derived from and is an incidental part of its exclusive legislative authority over certain classes of subjects assigned to it in the B.N.A. Act. These are enumerated in Section 91 or are expressly excepted from provincial jurisdiction by Section 92(10) and brought within the exclusive jurisdiction of Parliament by Section 91(29).

The specific industries and undertakings which Parliament has exclusive power to regulate and control are those of a national, inter-provincial or international nature. Parliament has authority to regulate, e.g., the operation of railways, telegraphs, canals and other works and undertakings *connecting the provinces*. It has the further authority to regulate undertakings or businesses which are wholly within a province but which have been declared by Parliament to be for the "general advantage" of Canada or of two or more of the provinces. Grain elevators, feed mills, uranium mines and defined operations of specific companies are some of the undertakings that have been declared to be for the general advantage of Canada.

Parliament may legislate for certain classes of employers and employees, therefore, because of the nature of the operations in which they are engaged. By virtue of its exclusive power to regulate the management and operation of particular works, undertakings or businesses, it has authority to enact legislation setting minimum standards and conditions of employment for workers engaged in such works, undertakings or businesses.

The industries or undertakings to which the Canada Labour (Standards) Code, as well as other federal labour legislation, applies are as follows:

1. Operations that connect a province with another province or another country, such as railways, bus operations, trucking, pipelines, ferries, tunnels, bridges, canals and telegraph, telephone and cable systems
2. All shipping and services connected with shipping, e.g., long-shoring and stevedoring
3. Air transport, aircraft and aerodromes
4. Radio and television broadcasting
5. Banks
6. Primary fishing, where fishermen work for wages
7. Flour, feed, and seed cleaning mills and feed warehouses
8. Grain elevators
9. Uranium mining and processing
10. Defined operations of specific companies that have been declared to be for the "general advantage" of Canada or of two or more provinces
11. Most federal Crown corporations, e.g., the CNR, Air Canada, the CBC and Polymer Corporation.

To sum up, Parliament's jurisdiction is limited to employment in or connected with the industries set out above. *The remaining field of employment*, including manufacturing, mining, construction, logging, wholesale and retail trade, the service industries and local business generally, *is subject to labour legislation enacted by the provincial legislature.*

Parliament has legislative authority with respect to those parts of Canada that are not included within a province. In two federal laws, the Yukon Act and the Northwest Territories Act, it has made provision for local government of each territory by a Commissioner and a Territorial Council. The Commissioner and Council have legislative powers with respect to a number of matters, including property and civil rights in the

Territory, and generally in relation to all matters of a merely local or private nature in the Territory. The jurisdiction of the Territorial Councils in labour matters is thus the same as that of the provincial legislatures, with the fundamental difference that the jurisdiction has been conferred by an Act of Parliament. Federal labour standards laws do not apply to undertakings of a local or private nature in the Territories.

## **CHANGES IN LABOUR STANDARDS IN 1968**

### **General Summary**

Under the authority of the Canada Labour (Standards) Code, an Order in Council was issued which suspended the operation of Part I of the Code (Hours of Work) to June 30, 1971, with respect to the interprovincial and international trucking industry, and which established interim hours of work standards for the industry. In another Order, similar standards were laid down for highway truck drivers employed by employers engaged in the transportation of mail under contract with the Post Office Department. The second Order also extends to June 30, 1971.

One of the major changes in provincial legislation was the enactment in Ontario of a new labour code, the Employment Standards Act. It provides minimum standards of hours of work, overtime pay, minimum wages, holiday pay and annual vacations with pay, and ensures equal pay for equal work for male and female workers employed in the same establishment. The main changes were the introduction of premium pay at the rate of one and one-half times the regular wage rate for overtime beyond 48 hours in a week and for work performed on seven specified holidays, the enforcement of the equal pay provisions through regular inspection, and a new wage collection procedure empowering the collection of unpaid wages up to a maximum of \$1,000 per claim. With the coming into force of the Act on January 1, 1969, new regulations went into effect establishing a minimum wage of \$1.30 an hour, the highest general minimum in Canada.

The Newfoundland Legislature enacted the Employment of Children Act, which prohibits the employment of children under the age of 16 except in family undertakings. In Manitoba, the minimum age for employment was raised from 15 to 16 years. Quebec raised the minimum age for employment from 14 to 16 but authorized the employment of children of 15 years during school vacations under a permit system.

There were a number of changes in the field of minimum wages. Prince Edward Island introduced a province-wide minimum wage for women. Nova Scotia made a change in its zoning system, setting minimum rates for two zones, instead of three, and abolished inexperienced workers' rates. In Saskatchewan, hourly rather than weekly rates were set, as in other provinces. General minimum rates were increased in five provinces.

As of January 1, 1969, general minimum rates in Canada will range from a low of 80 cents to a high of \$1.30 an hour. Higher minimum rates are in effect in most provinces for certain skilled trades, such as logging and construction. As already noted, the minimum wage for most workers in Ontario is \$1.30 an hour; for a few categories of workers this minimum is to be reached in two stages during 1969.

A minimum rate of \$1.25 an hour is in effect under the Canada Labour (Standards) Code, in the Yukon and Northwest Territories, in Alberta, British Columbia and Manitoba, and in Zone I in Quebec (the Greater Montreal area). Elsewhere the minimum rate is \$1 an hour or over, with the exception of Newfoundland, Prince Edward Island and Nova Scotia, where women's rates fall below \$1 an hour, and the rural areas of Saskatchewan, where a minimum of 95 cents an hour is in effect.

In Ontario, the equal pay provisions of the Ontario Human Rights Code were transferred to the Employment Standards Act. The purpose of the transfer was to provide for regular enforcement by the field staff of the Department of Labour. This is a new development in Canada, where all other equal pay Acts depend for enforcement on receipt of complaints. The Ontario Act now prohibits discrimination against either sex in the payment of wages. In Prince Edward Island, the provisions of the Equal Pay Act, now repealed, were incorporated in a new Human Rights Code.

Previous to the enactment of the Employment Standards Act, Ontario had no statutory requirements regarding overtime pay. The Act requires payment of one and one-half times the regular rate for any hours worked in excess of 48 in a week.

In Quebec, the annual vacation to which workers are entitled after a year of employment was extended from one week to two weeks, effective from January 1, 1969.

In Ontario, provision was made in the Employment Standards Act for premium pay for work done on seven public holidays. An employee



who works on any of these holidays must be paid a minimum of one and one-half times his regular wage rate.

Prince Edward Island enacted a Human Rights Code prohibiting discrimination on grounds of race, religion, religious creed, colour, or ethnic or national origin in regard to public accommodation, rental practices, employment and membership in trade unions.

Increased benefits were provided under six of the Workmen's Compensation Acts.

Further details of the new or revised standards are set out below.

### **Statutory School-Leaving Age**

Provisions in the *Ontario* Schools Administration Act permitting children to be exempted from compulsory school attendance for purposes of employment were repealed. These permitted a child of 14 years of age or over to be exempted from school attendance, and a child under 14 to be excused from attending school for up to six weeks in a term, with a home permit or employment certificate, to help on the family farm or in other work carried on by his parent or guardian or to take employment for his own maintenance or for the maintenance of a person dependent upon him. In line with government policy, which is to encourage children to get as much education as possible, the practice of issuing exemptions was discontinued. The law now provides that no child under 16 may be employed during school hours.

An amendment was made to the School Attendance Act of *Manitoba*, where the regular school-leaving age is 16, to enable a child over 15 years of age to leave school, if he has ceased to benefit from school attendance. To be exempted, a child must obtain a certificate signed by three persons — his parent or guardian, the school attendance officer and the superintendent of schools in the area, or, if there is no superintendent, the school inspector.

### **Minimum Age for Employment**

The *Manitoba* Employment Standards Act was amended to raise the minimum age for employment from 15 to 16 years, thus bringing it into line with the school-leaving age. The minimum age for employment in a factory is now 16 years and, as before, there is no provision for exceptions. For any other employment the minimum age is 16, except with a permit from the Minister of Labour.

In *Quebec*, a minimum age of 16 years was established, in place of the former minimum of 14, by amendments to the Industrial and Commercial Establishments Act. Provision was made in the Act for the issuing of permits allowing the employment of boys and girls of 15 years of age during school vacations.

*Newfoundland* enacted a special Act to regulate the employment of children. The Employment of Children Act, which is to be proclaimed in force, prohibits the employment of children under 16 except in family undertakings. It also lays down the conditions under which a child under 16 may be employed by his parent or guardian in a family undertaking.

The minimum age of 16 years set by the Act is applicable to any employment. Regulations may be made, however, by the Lieutenant Governor in Council permitting the employment of children under 16 in specified occupations, subject to conditions established as safeguards, such as a minimum age and a minimum wage.

Regulations may also be made prohibiting the employment of young persons under 18 in any specified occupation or prescribing the circumstances under which and the occupations in which young persons under 18 may be employed.

Employers are required to keep on file birth certificates of all employees under 18. The Act provides for a system of inspection, and requires every employer to keep a register of the names, dates of birth, addresses, and dates of commencement and termination of employment of all employees under 18.

As required by the Act, an advisory committee has been established, on which the Departments of Public Welfare, Education, Health and Labour are represented, to assist the Minister of Labour in carrying out the purposes of the Act.

## **Minimum Wages**

### *Nova Scotia*

In the revision of its general order, effective April 1, 1968, the *Nova Scotia* Minimum Wage Board dropped its provision for inexperienced workers' rates which permitted employers to employ workers during their first 350 hours of employment at rates 15 cents below the minimum for experienced employees.

Adult rates now apply to employees of 18 and over, instead of 17 and over. Rates for young workers (now referred to as underage workers) apply to workers between the ages of 14 and 18.

The zone system was also changed by combining the former zones IA and IB, comprising the cities and larger towns of the province, to form a new Zone I. Zone I now consists of Halifax-Dartmouth, Sydney and New Glasgow and surrounding areas within a ten-mile radius, and of Truro, Amherst and Yarmouth and surrounding areas within a five-mile radius. Zone II, as before, consists of the rest of the province.

The minimum wage for male workers 18 years of age and over was raised to \$1.15 an hour in Zone I and to \$1.05 an hour in Zone II; the minimum rate for women workers 18 years of age and over was raised to 90 cents in Zone I and to 80 cents in Zone II. This involved an increase of 5 cents an hour for workers in the former Zone IA and 10 cents an hour for workers in the former Zone IB and Zone II.

Minimum rates for underage workers are 95 cents an hour for boys and 70 cents an hour for girls in Zone I, and 80 cents for boys and 55 cents for girls in Zone II.

In the order governing beauty parlors, the zones were consolidated, as in the general order. Minimum rates for experienced workers were raised to 95 cents an hour in Zone I and to 80 cents an hour in Zone II. Inexperienced workers still have no set rate for the first three months of employment, but are now to receive 45 cents an hour for the second three months in both zones, and, for the third three months, 70 cents an hour in Zone I and 60 cents an hour in Zone II.

An amendment to the order governing road building and heavy construction raised the minimum wage by 10 cents to \$1.25 an hour.

### *Newfoundland*

*Newfoundland* increased its minimum wages, effective May 1, to \$1.10 an hour for men and to 85 cents an hour for women. These rates apply to workers over 19. Male employees between the ages of 16 and 19 must now receive 70 cents an hour and female employees in the same age group must be paid 50 cents an hour. The rates previously in effect were 70 cents for men and 50 cents for women and these rates applied to all workers over 17.

Employees engaged in farming and market gardening and domestic servants in private homes are excluded, as they were from the previous order in 1963.

An overtime rate of at least one and one-half times the minimum rate must be paid for all hours worked in excess of 48 in a week. Employees engaged in fish processing are excluded from this requirement. The overtime provisions apply to all other employees except shop assistants who are covered by the Hours of Work Act, 1963. The latter must be paid time and one-half their regular rate after 8 hours in a day or 40 hours in a week.

### *Prince Edward Island*

*Prince Edward Island* established a minimum wage applicable to all women workers in the province, except farm labourers and domestic servants in private homes. The only women previously covered were waitresses and cashiers in restaurants in Summerside and Charlottetown, and laundry workers. The order does not apply to persons whose wages are fixed under the Industrial Relations Act.

The rate established by the new order were 80 cents an hour, as of July 1, 1968; 85 cents as of January 1, 1969; and 95 cents as of July 1, 1969. Since 1966 the minimum wage for men has been \$1.10 an hour.

A rate of 5 cents below the minimum may be paid to inexperienced workers for a probationary period of 30 days and to students who work a minimum of 28 hours a week, or full time from May 15 to September 15, or during Christmas and Easter vacations.

An overtime rate of not less than one and one-half times the minimum rate must be paid for all hours worked in excess of 48 in a week or the normal hours worked, if less.

Employees hired on a seasonal basis during the harvesting and processing season may work a maximum of 54 hours a week. Work in excess of 54 hours is to be paid for at a rate of one and one-half times the minimum rate. In all such cases, before the work starts, the employer must submit a statement describing the work and stating the period during which the work is to be undertaken.

### *Saskatchewan*

*Saskatchewan* replaced and consolidated its minimum wage orders, effective October 1, increasing minimum rates for most employment. A new departure was that hourly rates were set, rather than a weekly rate supplemented by a part-time hourly rate, as in previous years.

The orders now consist of: two general orders, one for the ten cities and a five-mile radius and one for the rest of the province; three



special orders covering (1) construction, well drilling and truck drivers. (2) logging and lumbering, and (3) janitors or caretakers in residential blocks; an order setting out public holiday provisions; an order containing special provisions applicable to hotels, restaurants, educational institutions, hospitals and nursing homes dealing with such matters as working shifts, transportation of female employees who finish their work during the night, minimum age for employment, uniforms and meal periods; and an order requiring employers to give employees statements of earnings on each payday. An order governing places of amusement was not reissued. The persons previously covered by the order now come under the general orders.

The general orders establish a minimum wage of \$1.05 an hour in the cities and 95 cents an hour in the rest of the province for employees 17 years of age and over; employees under 17 must receive at least 95 cents an hour in the cities and 90 cents an hour elsewhere in the province. The previous adult rates were \$40 and \$38 a week. Rates for workers under 17 were \$38 and \$36 a week.

The order governing construction, well drilling and truck drivers sets a minimum wage of \$1.25 an hour. The former rates were: for construction \$1.20; for well drilling \$1.15; and for truck drivers \$1.20 an hour or 3½ cents per mile, if greater. No mileage rate is now set for truck drivers. The minimum wage applies to drivers of trucks that have a gross weight of over 7,500 pounds. Helpers and swamper are no longer included.

The logging and lumbering order also establishes a minimum of \$1.25 an hour, with \$185 a month for cooks, cookees, bull cooks and watchmen. The former rates were \$1.05 an hour and \$165 a month.

### *Quebec*

*Quebec* increased minimum rates established by General Order 4, Order No. 5 governing service establishments, and Order No. 8 governing hotel trade establishments, effective November 1.

The general rates set by Order 4 were increased by 20 cents to \$1.25 an hour in the Montreal area (Zone I) and by 15 cents to \$1.15 an hour in the rest of the province (Zone II) for workers 18 and over. Employees on probation during their first 60 days of employment must be paid not less than \$1.15 and \$1.05 an hour, instead of 95 and 90 cents. Employees under 18 are to receive at least \$1.05 an hour in Zone I and 95 cents an hour in Zone II.

Under Order 4, time and one-half the regular rate must be paid for hours worked by an employee beyond 48 in a week. Certain classes of employees are not entitled to overtime pay, however, including those employees whose weekly remuneration is more than a specified amount. Now excluded from entitlement to overtime pay are employees who are paid a fixed weekly, monthly or annual salary or who are paid on any other basis and in either case receive at least \$80 a week in Zone I and \$70 a week in Zone II. Watchmen, employees engaged in fishing or in the processing or canning of fish, and employees engaged in picking or processing fruit or vegetables are not entitled to overtime pay.

Rates in the two special orders were raised by 10 cents an hour. The coverage of the service establishments order was extended to include delivery services, shoe repair and shoeshine services and laundering, cleaning and pressing services. The rates were increased to \$1.10 an hour in Zone I and to \$1 in Zone II. Employees on probation during the first 60 days of employment are to receive 95 cents an hour in Zone I and 90 cents in Zone II, and employees under 18, 85 cents and 80 cents.

The order covering hotel and restaurant employees increased rates from 95 cents an hour in Zone I and 90 cents an hour in Zone II to \$1.05 and \$1 an hour. Employees on probation for the first 60 days are to receive at least 95 cents and 90 cents an hour, instead of 85 and 80 cents. Rates were set for the first time for employees under 18, who are to receive the same minima as probationary workers.

### *Ontario*

In *Ontario*, authority to make regulations establishing minimum rate of wages for employees was transferred from the former Minimum Wage Act to the new Employment Standards Act.

Regulations under the Act, effective January 1, 1969, increased the general minimum rate from \$1 to \$1.30 an hour. Learners' rates, payable during the first four months of employment, are to be \$1.20 an hour, instead of 90 cents. The lower rates for seasonal employees in fruit and vegetable processing plants were eliminated.

The rates for workers in hotels, tourist resorts, restaurants and taverns are increased to the new level in two stages: to \$1.15 an hour on January 1 and to \$1.30 on October 1. Learners' rates for these establishments, payable during the first month of employment, were raised from 90 cents an hour to \$1 on January 1 and to \$1.15, as of October 1. The maximum deductions that may be made from the minimum wage for room and board were also increased.

The special rates for workers in the construction industry and for certain other classes of employees were established as follows:

	NEW RATES	FORMER RATES
Construction .....	\$1.55 an hour	\$1.25 an hour
Taxi drivers .....	\$1.15 an hour (\$1.30 from October 1) or 35 per cent of the proceeds, whichever is greater	75 cents an hour
Ambulance drivers and helpers .....	\$1.30 an hour (if hours worked are less than 48 a week) \$62.40 a week (if hours exceed 48 and no records are kept)	
Delivery and shoeshine boys, etc. ....	90 cents an hour	60 cents an hour
Students .....	\$1 an hour	80 cents an hour
— For first month of summer employment .....	90 cents an hour	70 cents an hour

### *British Columbia*

A minimum wage of \$1.60 an hour was established for hairdressers in *British Columbia*. The previous rates were \$35 a week for employees working 39 hours a week or more and 90 cents an hour for employees working less than 39 hours a week.

### **Equal Pay**

The equal pay provisions of the *Ontario Human Rights Code* were transferred to the *Employment Standards Act*. They now prohibit discrimination against either sex in the payment of wage rates. Under the amended provisions, the employer is required to pay equal wages to men and women for the same work performed in the same establishment, the performance of which requires equal skill, effort and responsibility and which is performed under similar working conditions. Differences in rates of pay based on a seniority system, a merit system, or a system that measures earnings by quantity or quality of production or on any factor other than sex do not constitute discrimination within the terms of the *Act*.

The *Prince Edward Island Equal Pay Act* was repealed and its provisions were incorporated in a new Human Rights Code.

## **Hours of Work**

### *Federal*

An Order in Council made under the *Canada Labour (Standards) Code* — The Transport of Goods by Motor Vehicle Hours of Work Extension Order — laid down hours of work standards for that part of the trucking industry which is subject to federal jurisdiction for a three-year period, beginning July 1, 1968. Previous to that date, the application of Part I of the Code (Hours of Work) to the industry had been suspended by an order of the Minister of Labour made on April 4, 1967.

The Order in Council was made in accordance with the recommendations of a commission of inquiry appointed under Section 35 of the Code to review hours of work conditions prevailing in the industry. The commission found that there was a pattern of very long hours in the industry, and recommended a number of major adjustments over a period of three years.

In a second Order, covering the period from September 11, 1968, to June 30, 1971, standards similar to those set in the trucking Order for highway drivers were established for truck drivers employed by mail contractors of the Post Office.

The deferment of the operation of Part I of the Code to navigation and shipping expired on December 31, 1968, and Part I became effective in respect of the industry from January 1, 1969.

### *Provincial*

In *Ontario*, hours of work provisions were incorporated in the Employment Standards Act.

Daily and weekly limits on working hours remain 8 and 48. The major change was the introduction of overtime pay of not less than one and one-half times the regular rate for hours worked in excess of 48 in a week. Special regulations permit extended hours to be worked in some industries, up to a specified weekly maximum, before the overtime rate applies.

The Director of Employment Standards may issue a permit authorizing hours of work in an establishment in excess of 8 and 48, subject to specific limits laid down in the Act. A limit of 12 hours in a week

is placed on the amount of overtime that may be worked by an engineer, fireman, full-time maintenance man, receiver, shipper, delivery truck driver or his helper, watchman or any other person who, in the opinion of the Director, is engaged in a similar occupation. Overtime for girls under 18 is limited to six hours in a week. For all other employees, the limit for excess hours is 100 hours in a year for each employee.

The Director may also issue a permit authorizing working hours in excess of the limits set out above, if he is satisfied that the nature of the work or the perishable nature of raw material being processed requires the excess hours.

The Act prohibits work between midnight and 6 a.m. for girls under 18. A woman over 18 whose work period begins or ends between midnight and 6 a.m. must be provided with private transportation at the employer's expense to or from her residence, as the case may be.

The *Quebec* Industrial and Commercial Establishments Act was amended to reduce the limits on working hours of women and boys under 18. For these employees the Act now sets limits of 9 hours in a day and 50 hours in a week for work in an industrial establishment, instead of the previous 10 and 55 hours, and a maximum of 54 hours in a week for work in a commercial establishment, in place of the former maximum of 60 hours.

As a result of an amendment to the *Manitoba* Employment Standards Act, the Manitoba Labour Board is required to review annually its orders permitting variations from the standard hours of work.

### **Weekly Rest-Day**

In *Manitoba*, employees who are usually employed less than five hours in a day were brought within the scope of the weekly rest provisions of the Employment Standards Act, and are thus entitled to one day of rest in a week.

### **Annual Vacations**

In *Quebec*, the annual vacation to which workers are entitled after a year of employment was extended from one week to two weeks, effective January 1, 1969. In line with this change, vacation pay was increased from 2 to 4 per cent of earnings.

*Ontario* annual vacation provisions were transferred to the Employment Standards Act. The vacation-with-pay stamp book system for



construction workers will be phased out between January 1, 1970, and June 30, 1970.

### **Public Holidays**

In *Ontario*, provision was made in the Employment Standards Act for premium pay for work done on seven public holidays. The holidays are New Year's Day, Good Friday, Victoria Day, Dominion Day, Labour Day, Thanksgiving Day and Christmas Day. An employee who works on any of these holidays must be paid not less than one and one-half times his regular rate. If New Year's Day, Dominion Day or Christmas Day falls on a Sunday, the following day is to be considered a holiday for purposes of overtime pay.

The *British Columbia* holiday order granting employees, other than those covered by a collective agreement, eight paid holidays a year was amended. The main change is that a distinction is now made, as under the Canada Labour (Standards) Code, between persons employed in a "continuous operation" and other employees, with regard to pay for work performed on a general holiday. A "continuous operation" is defined as one normally carried out without regard to Sundays or public holidays.

Where an employee employed in a "continuous operation" is required to work on a holiday, he must, in addition to his regular rate of pay for the day, either be paid time and one-half his regular rate for all hours worked, or be given a holiday with pay at some other time.

### **Fair Employment Practices**

The *Prince Edward Island* Legislature adopted a Human Rights Code, similar in scope to the Nova Scotia and Ontario codes. It prohibits discrimination on grounds of race, religion, religious creed, colour, or ethnic or national origin in regard to hiring and conditions of employment, employment application forms, job interviews and advertisements, in matters of trade union membership, in public accommodation, in rental practices, and in the publication of notices or signs. Equal pay provisions, formerly contained in a separate Act, were incorporated in the Code.

The Code applies to the provincial Government and its agencies. Domestic servants in private homes, specified types of nonprofit organizations and organizations operated to foster the welfare of a religious or ethnic group are excluded, as in other jurisdictions.



The Code is to be administered by the Minister of Labour and Manpower Resources. As in other jurisdictions, cases of alleged discrimination are to be investigated on complaint. The Minister is empowered to develop programs of public information and education designed to eliminate discrimination.

*Ontario* amended the Age Discrimination Act, which prohibits discrimination by employers and trade unions against persons between 40 and 65 because of their age. The amendment forbids job advertising that expresses a limitation or specification based on age.

### **Maternity Protection**

In *Alberta*, the section of the Alberta Labour Act authorizing the Board of Industrial Relations to make regulations regarding maternity protection was revised, enabling the Board to regulate and prohibit the employment of women during and following pregnancy. Previously, it could prohibit employment for specified periods.

### **Workmen's Compensation**

Benefits under Workmen's Compensation Acts were increased in six provinces.

The maximum annual earnings on which compensation may be based were raised in four provinces: from \$5,000 to \$6,000 in *Nova Scotia*, from \$6,000 to \$6,600 in *Saskatchewan*, from \$6,000 to \$7,000 in *Ontario*, and from \$5,000 to \$5,500 for the year 1969 and \$6,000 thereafter in *New Brunswick*.

Five provinces — *British Columbia*, *New Brunswick*, *Nova Scotia*, *Prince Edward Island* and *Saskatchewan* — put into effect higher minimum payments for total disability.

The maximum allowance for funeral expenses was raised from \$300 to \$400 in *Nova Scotia* and *Ontario* and from \$300 to \$500 in *New Brunswick*.

A widow's pension was increased from \$75 to \$125 a month in *Ontario*, and from \$110 to \$115 a month in *Saskatchewan*. In *Saskatchewan*, the provision under which the pension reverted to \$75 a month after the age of 70 was deleted. In *Ontario*, the lump sum payment to a widow was increased from \$300 to \$500.

Monthly allowances to dependent children were raised in *Ontario*, *Prince Edward Island* and *Saskatchewan*. In *Nova Scotia*, compensation

is now to be paid to the end of the school year in which a child attains the age of 18, rather than to the child's eighteenth birthday, as formerly. In *Saskatchewan*, at the discretion of the Workmen's Compensation Board, payment of compensation to children continuing their education may be extended to the age of 21, instead of 19, as before.

In *British Columbia*, a further 2 per cent increase in widows' and children's benefits went into force on January 1, 1968, in accordance with the formula under which these payments are tied to the Consumer Price Index.

### **Territorial Ordinances**

The Council of the *Yukon Territory* enacted a Labour Standards Ordinance on April 4, 1968, similar to the Northwest Territories Labour Standards Ordinance enacted in 1967. Both Ordinances went into force on July 1, 1968.

The Ordinances, which were modelled on the Canada Labour (Standards) Code, with some changes in view of local conditions, lay down standards of hours of work, minimum wages, annual vacations and general holidays for employees in industrial establishments in the Territories.

In both Territories, standard hours are eight in a day and 48 in a week, after which time and one-half the regular rate must be paid. Maximum hours are 10 in a day and 60 in a week, except in special circumstances. Different standard and maximum hours are established for certain classes of employees.

The Ordinances provide for a minimum wage of \$1.25 an hour for workers 17 years of age and over, and two weeks vacation with pay after a year's service. Both provide for the same eight general paid holidays as in the federal Code, and the Yukon Ordinance provides for an additional holiday, Discovery Day.

## STATUTORY SCHOOL-LEAVING AGE

In all provinces there is a school attendance law which makes it compulsory for children between specified ages to attend school. Exceptions are permitted where a child is unable to attend because of illness or other unavoidable cause and, in most provinces, because of distance from school (where no conveyance is provided) or lack of school accommodation. Some Acts stipulate that a child may be excused from attendance before reaching the statutory school-leaving age if he has already attained a specified standing. An exception may also be granted in special cases, if it appears to be in the interest of the child that he should be excused from school attendance or where the child is certified to be under efficient instruction elsewhere.

In Manitoba, a child over 15 may be permitted to leave school on production of a certificate signed by his parent or guardian, the school attendance officer and the superintendent of schools or, if there is no superintendent, by the school inspector.

In all provinces except British Columbia, Ontario and New Brunswick, a child may be exempted from school attendance for a temporary period if his services are required for necessary farm or home duties or for employment. The New Brunswick Act states that the Minister of Education may issue a certificate relieving a child from school attendance for a maximum period of six weeks in each school term, on the written application of the child's parent, if he agrees with the reasons for such application.

The school-leaving age in each province and the provisions for exemption for employment are shown below. The laws forbid the employment of children of school age during school hours unless a child is excused for any of the reasons provided in the Act.

## Statutory School-Leaving Ages and Work Exemptions

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### *Newfoundland\**

**15.** Exemption: With certificate for a stated period, but if child is under 12 for not more than 2 months in a school year, unless with approval of Minister<sup>1</sup>.

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### *Prince Edward Island*

**15** unless has completed courses in public school. Attendance required for only 75% of term except in Charlottetown and towns where 90% attendance is required. Exemption: (1) For poverty; (2) If 12, for not more than 6 weeks in year<sup>2</sup>.

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### *Nova Scotia\**

**16**, cities and towns, **14** elsewhere but **15** or **16** may be fixed locally. Exemption: (1) If 12, for not more than 6 weeks in year<sup>3</sup>; (2) If 13, with employment certificate. Medical certificate may be required.

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### *New Brunswick*

**15** unless child has passed grade 12. Exemption: Not more than 6 weeks in each school term<sup>4</sup>.

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### *Quebec\**

**15.** Exemption: Not more than 6 weeks in year<sup>5</sup>.

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### *Ontario\**

**16** unless has completed secondary school or equivalent.

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### *Manitoba\**

**16.** Exemption: Over 12, not more than 4 weeks in year<sup>6</sup>.

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### *Saskatchewan*

**16** unless has passed grade 8. Exemption<sup>1</sup>.

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### *Alberta\**

**16.** Exemption: If 12, not more than 3 weeks in term<sup>5</sup>.

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### *British Columbia*

**15** unless has completed course at nearest public school and transport to higher school not provided.

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\*Child reaching school-leaving age required to attend school to end of school year in Newfoundland, Nova Scotia, Ontario and Quebec, to end of term in Manitoba, and in Alberta to end of June term if age reached in that term.

<sup>1</sup>If services needed for maintenance of self or others.

<sup>2</sup>If services needed in husbandry or other necessary employment.

<sup>3</sup>If services needed in farming, home duties or other necessary employment.

<sup>4</sup>If Minister agrees with the reasons for the parent's application for exemption.

<sup>5</sup>If services needed in farming, home duties, maintenance of self or others.

<sup>6</sup>If services needed in husbandry or home duties.

## MINIMUM AGE FOR EMPLOYMENT

The Canada Labour (Standards) Code and regulations do not set an absolute minimum age for employment but lay down conditions under which young persons under 17 years may be employed in federal undertakings. A young person under 17 may be employed in a federal industry only if (1) he is not required to be in attendance at school under the laws of his province; (2) the work in which he is to be employed is not likely to injure his health or endanger his safety; and (3) he is not employed underground in a mine or in work prohibited for young workers under the Explosives Regulations, the Atomic Energy Control Regulations or the Canada Shipping Act.

Employment of young workers under 17 is subject to two further conditions: (4) that an employee under 17 is not required or permitted to work between 11 p.m. and 6 a.m.; and (5) that he is paid not less than \$1 an hour, unless he is undergoing on-the-job training under an approved training plan.

The Canada Shipping Act fixes a minimum age of 15 for employment at sea.

In the provincial jurisdictions, a minimum age for employment is set by mines Acts and a variety of other provincial legislation (child labour laws, the Alberta Labour Act, the Manitoba Employment Standards Act, the New Brunswick Minimum Employment Standards Act, factory or industrial safety laws and minimum wage orders). No minimum age has been established for employment in agriculture.

Four provinces — British Columbia, Nova Scotia, Prince Edward Island and Newfoundland — have a child labour law prohibiting employment below a specified age. The Newfoundland Employment of Children Act, 1968, is to go into force on proclamation.

The British Columbia Act forbids employment of a child under 15 in specified industries or occupations, unless a permit is obtained from the Minister of Labour. The Act applies to manufacturing, ship-building, electrical works, logging, construction, catering, public places of amusement, the mercantile industry, shoeshine stands, automobile service stations, road transport and the laundry, cleaning and dyeing industry.



Under the Nova Scotia Act, employment of a child under 14 is forbidden in manufacturing, shipbuilding, electrical works, construction, the forest industry, garages and service stations, hotels, restaurants, the operation of elevators, theatres and other places of amusement. The Nova Scotia Construction Safety Act sets a minimum age of 16 for employment in construction.

The Prince Edward Island law sets a minimum age of 15 years for employment in mining, manufacturing, shipbuilding, electrical works, construction and transport by road, rail or inland waterway.

The Newfoundland Act prohibits the employment of children under the age of 16, except in family undertakings. There is provision in the Act, however, for the making of regulations by the Lieutenant Governor in Council permitting the employment of children under 16 in any specified occupation, subject to such conditions as may be prescribed.

The Act lays down the conditions under which a child under 16 may be employed by his parent or guardian in a family undertaking. He may not be employed to do any work that is or may be harmful to his health or normal development or that may prejudice his attendance at school or his capacity to benefit from school instruction. He may not work more than eight hours in a day or more than three hours on a school day. Time spent at school and at work may not total more than eight hours. Work between the hours of 9 p.m. and 8 a.m. is prohibited.

In three other provinces — Alberta, Manitoba and New Brunswick — a minimum age is fixed for most employment in the province in a law constituting a labour code or dealing with a number of employment standards.

In Alberta, the minimum age for employment in or about a factory, shop, office building, hotel or restaurant is 15 years. To engage in any other employment, a child under 15 must have the approval of the administrative board and the written consent of his parent or guardian.

In Manitoba, a child under 16 may not be employed in a factory. For any other employment, the minimum age is 16, unless a written permit is obtained from the Minister of Labour.

In New Brunswick, no child under 16 may be employed in any place of employment except a private home or a farm, unless he has written authorization from the Minister of Labour.

In the other provinces, a minimum age for a wide field of employment is established in factory or industrial safety laws and, in Saskatchewan, a minimum wage order.

In Ontario, the minimum age for employment in a factory is 15 years. A child of 14 may be employed in a shop, office or office building, restaurant, bowling alley, pool room or billiard parlour if the work is not likely to endanger his safety.

The Ontario Construction Safety Act fixes a minimum age of 16 years but permits the employment of 15-year-olds in such parts of a construction project as may be designated by the regulations. No provision has been made in the regulations to date for the employment of 15-year-olds. A minimum age of 16 has been established for the logging industry.

Since the school-leaving age in Ontario is 16 years and no exemptions are now permitted for employment, the above-mentioned minimum ages which are below the age of 16 apply only to such time as school is not in session. No child under 16 may be employed in any employment during school hours.

In Quebec, the minimum age for employment in an industrial or commercial establishment is 16 years. The same minimum age applies to employment in hotels, restaurants, theatres and other places of amusement and to the employment by a department store or telegraph company of boys or girls as messengers. Children of 15 years of age may be employed in any of these workplaces during school vacations but only with a permit from the inspector.

Boys and girls under 16 are forbidden to sell papers or carry on any street trade unless they can read and write fluently, and such work may not be carried on after 8 p.m.

In Saskatchewan, no person under 16 may work in a factory (which term includes a coal mine, potash mine and sodium sulphate mine and works), hotel, restaurant, educational institution, hospital or nursing home.

The minimum age set by mines Acts and other provincial legislation for employment in mines, factories, shops, hotels and restaurants is set out in the table below. In most provinces, as indicated above, the legislation (apart from mines Acts) covers certain other classes of establishments as well as those set out in the table.

## Minimum Age for Employment

Province	Establishment			
	Mines	Factories	Shops	Hotels Restaurants
Newfoundland	16, above ground <sup>1</sup> 18, below ground	16 <sup>1</sup>	16 <sup>1</sup>	16 <sup>1</sup>
Prince Edward Island	—	15	—	—
Nova Scotia	Coal: 18, below Metal: 16, above 18, below	14 <sup>2</sup>	—	14
New Brunswick	Coal: 16, above 16, below Metal: 16, above 18, below	16 except with permit	16 except with permit	16 except with permit
Quebec	16, above 18, below	16 <sup>3,4</sup>	16 <sup>3</sup>	16 <sup>3</sup>
Ontario	16, above 18, below	15 <sup>5</sup>	14 <sup>5,6</sup>	14 <sup>5,6</sup> (restaurants only)
Manitoba	16, above 18, below	16	16 except with permit	16 except with permit
Saskatchewan	Coal: 16 Metal: 16, above 18, below	16	—	16
Alberta	17, above 17, below	15	15 <sup>7</sup>	15
British Columbia	Coal: 16, above 17, below Metal: 18, below <sup>8</sup>	15 except with permit	15 except with permit	15 except with permit

<sup>1</sup>Except in family undertakings. Act not yet proclaimed in force.

<sup>2</sup>16 from 8 a.m. to 5 p.m. except with employment certificate or except on school holidays.

<sup>3</sup>The Government may exempt establishments from the Act.

<sup>4</sup>For certain dangerous occupations, the minimum age is 18 for boys; for others, it is 16 for boys and 18 for girls.

<sup>5</sup>A child under 16 may not be employed during schools hours.

<sup>6</sup>A child of 14 may be employed if the work is not likely to endanger his safety.

<sup>7</sup>Minimum age of 12 years in certain occupations, including work as clerk, delivery boy or delivery girl in retail store, with written consent of parent and subject to restrictions on hours (2 hours on a school day, 8 hours on any other day) if not injurious to life, limbs, health, education or morals.

<sup>8</sup>A boy who has reached the age of 17 may be employed underground for the purpose of training.

## MINIMUM WAGES

Minimum wage laws are in force in the federal jurisdiction and in all ten Canadian provinces.

The federal legislation is Part II of the Canada Labour (Standards) Code. The Code sets a minimum rate of \$1.25 an hour for employees in the federal industries. This rate applies to workers of both sexes who are 17 years of age and over, whether employed on a full-time or part-time basis. Young persons under 17, who may be employed only under conditions laid down by the regulations, must be paid not less than \$1 an hour.

Employees who are paid on other than a time basis, such as pieceworkers and persons paid a mileage rate, are required to be paid the equivalent of the minimum wage.

An employer who is providing on-the-job training to increase the skill or proficiency of his employees, in accordance with conditions prescribed by the regulations, may be exempted from paying the minimum wage to such employees during the whole or part of the training period.

The Code provides also for the payment of a wage lower than the minimum rate to handicapped employees under a system of individual permits.

In Alberta, Manitoba and Ontario, minimum wage legislation is part of the province's labour code — the Alberta Labour Act, Part II; the Manitoba Employment Standards Act, Part II; the Ontario Employment Standards Act, Part IV. The other provinces have individual minimum wage laws.

The minimum wage legislation in each of the provinces authorizes a minimum wage board or other labour board or the Lieutenant Governor in Council to recommend or establish minimum rates of wages. Minimum rates are imposed by minimum wage orders or, in Ontario, by general regulations made under the Employment Standards Act.

Except in three provinces, the Acts do not specify how the minimum wage is to be determined. In Manitoba, the board is directed to take into consideration and be guided by "the cost to an employee of purchasing the necessities of life and health". The Saskatchewan board is authorized to fix the minimum wage either on the basis of the necessary cost of living or on the basis of the wages that it considers to be generally prevailing in the class of employment affected. The Quebec

Minimum Wage Commission is directed to consider "competition from outside countries or from the other provinces and the economic conditions peculiar to the various regions of the province".

The practice of the boards is to fix a general basic wage, taking into account the cost of living, economic conditions and other relevant factors. The minimum rate is set mainly for the protection of the unorganized and unskilled worker. It constitutes a floor above which trade unions may negotiate with management for a higher standard. The boards hold public hearings and make extensive inquiries before minimum wage orders are put into effect. Minimum wage orders are reviewed fairly frequently.

The boards that fix minimum wages are usually composed of members who represent the interests of employers and employees and in some cases the general public, with an impartial chairman, frequently an officer of the Department of Labour. In British Columbia at least one member of the board must be a woman, and in Nova Scotia and Saskatchewan there must be two women on the board. There is also a woman on the Alberta board, although this is not required by statute. There are two women on the Manitoba board, representing employers and employees, respectively.

In most provinces minimum wage orders now cover practically all employment except farm labour and domestic service in private homes. These two groups are everywhere excluded from minimum wage regulation. A few other classes of workers are excluded in most jurisdictions, for example, part-time workers who are employed for 4 hours or less per day or for 24 hours or less per week in New Brunswick, resident janitors or caretakers in Ontario, certain categories of employed students, and supervisory and managerial employees.

In Alberta, British Columbia, Manitoba, Newfoundland, New Brunswick, Ontario and Prince Edward Island, minimum rates apply throughout the province. In the other three provinces there are regional differentials in minimum rates. Both Nova Scotia and Quebec are divided into two zones for minimum wage-setting purposes. In Saskatchewan, rates are set for the ten cities and a five-mile radius of each and for the rest of the province.

In Nova Scotia, Zone I consists of Halifax-Dartmouth, Sydney and New Glasgow and surrounding areas (ten-mile radius) and Truro, Amherst and Yarmouth and surrounding areas (five-mile radius); Zone II takes in the rest of the province.



In Quebec, Zone I comprises the Greater Montreal area, consisting of the Island of Montreal, Ile Jésus, Ile Bizard and the Chambly and Taillon electoral districts; Zone II takes in the remainder of the province.

Minimum wage orders apply to both men and women, and in seven provinces they set the same rate for both sexes. In Newfoundland, Nova Scotia and Prince Edward Island, rates are lower for women than for men.

In all provinces except British Columbia, general orders are issued setting rates that apply to most workers in the province. In most of these provinces the general orders are supplemented by special orders, applying to a particular industry, occupation or class of workers and in some cases taking into account a special skill. The British Columbia board issues a separate order for each industry or occupation. The separate orders together with a general order applicable to any employees not covered by separate orders provide coverage for most employees in the province.

The majority of the separate orders issued in British Columbia set minimum rates that may be compared to the rates set in general orders in other provinces. Orders governing factories, shops, offices, hotels, restaurants, hospitals, laundries, fish processing and elevator operators and the general order applicable to employees not covered by separate orders fix a minimum wage of \$1.25 an hour. A number of other orders set a minimum wage of \$1 an hour. In a fairly large number of orders, the board has also set minimum rates for workers having special skills, taking into consideration the prevailing rates in the trade concerned. These rates now range from \$1.30 to \$2.50 an hour. Hairdressers are entitled to a minimum wage of \$1.60 an hour. The rate set for pipeline construction and oil-well drilling is \$1.30 an hour; for the logging, sawmill, woodworking and Christmas-tree industries and metal mining, \$1.50 an hour; for construction labourers, \$1.65 an hour; for electronic technicians and stationary steam engineers, \$2 an hour; for journeymen-tradesmen in the shipbuilding industry, \$2.25 an hour; and for automotive mechanics, construction tradesmen, machinists, moulders, refrigeration mechanics and sheetmetal workers, \$2.50 an hour.

For purposes of comparison, the minimum rates shown in the three tables that follow (on pages 37-39) are set out not as general rates but as applying to specific workplaces—factories, shops, offices, hotels and restaurants.

General rates are set by the hour in all provinces. Weekly or monthly rates are established for a few classes of workers in various provinces.

In seven provinces the orders provide that inexperienced workers may be employed during a specified period at a rate below the regular minimum. These rates may be applicable generally or to a particular occupation. The learning period varies in length from one to six months (see Table 2, page 38).

Provision is also made in the legislation of almost all jurisdictions for the employment of handicapped workers at rates below the established minimum either under a system of individual permits or by the setting of a special rate.

In all provinces except New Brunswick, the orders set special minimum rates for young workers or for young workers in certain categories, such as newsboys or messengers. Student rates are set in four provinces. In Prince Edward Island, the general minimum wage order for men excludes persons under 18 and students employed during the school term and outside regular school hours.

The minimum rates set for young workers and for students in the various provinces are as follows:\*

Alberta	Workers under 18:	15 cents less than adult rate
	Students employed part-time:	55 cents, if under 17 65 cents, if over 17
British Columbia	Bicycle-riders and foot-messengers employed exclusively on delivery (no age specified):	50 cents
Manitoba	Workers under 18:	\$1
Newfoundland	Workers 16-19 years:	70 cents (males) 50 cents (females)
Nova Scotia	Workers 14-18 years: <sup>1</sup>	Zone I 95 cents (males) 70 cents (females)
		Zone II 80 cents (males) 55 cents (females)

\*For description of zones, see pages 30 and 31.

<sup>1</sup>Unless the Minimum Wage Board gives express approval, not more than 25% of an employer's total working force may be underage employees (14-18 years). In a hotel, restaurant, motel or tourist resort from June 15 to September 15, however, up to 60% of the employees may be underage workers.

Ontario	Persons under 18 employed as messengers, delivery boys, news vendors, pin setters, shoe-shine boys, golf caddies, or in the professional shop at a golf course, in a municipal public library, or in an amusement or refreshment booth at a fair or exhibition held by an agricultural association:	90 cents
	Students employed part-time (not more than 28 hours in a week), or employed from May 15 to September 15 or during Christmas or Easter vacations:	\$1
	If student required to work more than 28 hours in a week in the period May 15-September 15:	90 cents during first month of employment
Prince Edward Island	Students (female) who work a minimum of 28 hours in a week or who work full-time from May 15 to September 15 or during Christmas and Easter vacations:	5 cents less than regular minimum rate
Quebec	Workers under 18:	
	General	Zone I, \$1.05 Zone II, 95 cents
	Hotel trade establishments	Zone I, 95 cents Zone II, 90 cents
	Service establishments	Zone I, 85 cents Zone II, 80 cents
	Students and messengers under 18 employed by municipal corporations and school boards:	80 cents
	Workers under 19 employed in sawmills:	Zone I, 90 cents Zone II, 85 cents
Saskatchewan	Workers under 19 employed in woodworking plants:	Zone I, 95 cents Zone II, 90 cents
	Workers under 17:	Ten cities, 95 cents Rest of province 90 cents

Most general orders contain a "daily guarantee" or "call-in pay" provision requiring an employee who is called to work to be paid for a certain number of hours, even if he is not put to work or if he works for a shorter period. This two-, three- or four-hour minimum period, as the case may be, must be paid for at the minimum rate, except in

British Columbia, where payment is required at the employee's regular rate of pay.

Tipping is dealt with specifically in the Newfoundland, New Brunswick, Nova Scotia, Ontario and Quebec legislation (and also in the federal labour code). These provisions make it clear that gratuities are not to be counted as part of wages. Quebec orders state that tips are the exclusive property of the employee, and the employer is not allowed to deduct them or to consider them as part of the wages paid, even with the employee's consent. Boards in other provinces take the position that gratuities are not to be regarded as wages.

The frequency and method of wage payment are also dealt with in the minimum wage legislation of several jurisdictions. The federal labour code, the minimum wage legislation of British Columbia, Quebec and Saskatchewan, the Manitoba Employment Standards Act, the Ontario Employment Standards Act and the Alberta Labour Act lay down requirements regarding the furnishing of pay statements to employees.

In these jurisdictions, subject to the exceptions noted below, the employer is required to give each employee on each regular payday a statement showing specified particulars, such as the number of hours the employee is being paid for, wage rate, details of deductions, and net earnings. An employer may be exempted from this requirement in the federal jurisdiction by order of the Minister of Labour and in Saskatchewan by permit from the Chairman of the Minimum Wage Board.

In Manitoba, it is mandatory for an employer to give his employees pay statements on each payday but, if wages and deductions are the same over a period of time, a pay statement may be given at the beginning of the period and each time there is a change in wages or deductions. An earnings statement must be given, however, at the request of the employee or at the direction of the Minister of Labour.

In Alberta, employers with 11 or more employees must give their employees pay statements with their pay for each pay period. The employer with fewer than 11 employees must furnish such a statement on request.

Under annual vacations legislation in New Brunswick and Prince Edward Island, an employer must furnish an earnings statement for any specified period, if his employee requests it.

Requirements are also laid down in minimum wage orders regarding the provision and maintenance of uniforms, where these are required to be worn.

There are provisions in the orders of most provinces (and also in the federal labour code) relating to charges or deductions for board and lodging, where furnished by the employer to the employee.

In some jurisdictions (federal, Alberta, Newfoundland, New Brunswick, Nova Scotia, Prince Edward Island and Quebec), the orders set limits on the amounts by which such charges may reduce the minimum wage. The Ontario orders fix the maximum amounts at which meals or a room or both may be valued for minimum wage purposes, where board and lodging are provided as part of wages. In the other provinces, the orders set the maximum charges or deductions that may be made.

In Manitoba, an employer who is in the business of supplying meals to customers may not charge an employee more than half the charge made to a customer for the same meal. If he is not in the business of furnishing meals, he may not deduct more than the prescribed amounts.

The Saskatchewan order containing special provisions applicable to hotels, restaurants, educational institutions, hospitals and nursing homes specifies the maximum deductions that may be made for board and lodging, but states that these limits are not to apply with respect to employees of educational institutions, hospitals, or nursing homes who are paid more than \$50 a week.

Maximum charges or deductions are not set in British Columbia orders. If the board finds that services are inadequate or charges are excessive, it may specify the maximum charges that may be made.

The maximum permitted charges or deductions for board and/or lodging under the Canada Labour (Standards) Code and the provincial minimum wage orders are as follows:



	Meals		Lodging		Board and Lodging
	single	per week	per day	per week	per week
Federal .....	50¢		60¢		
Alberta .....	35¢	\$6	50¢	\$3	
Manitoba .....	35¢ <sup>1</sup>	\$7		\$3	
Newfoundland.....	25¢ <sup>2</sup>				
New Brunswick .....	50¢	\$7.50		\$2.50	\$10
Nova Scotia .....	40¢	\$7		\$3	\$10
Ontario .....	60¢	\$12		\$5	\$17
Prince Edward Island .....	40¢ <sup>3</sup>	\$7 <sup>3</sup>		\$3 <sup>3</sup>	\$10 <sup>3</sup>
Quebec .....	60¢			\$3	\$15
Saskatchewan .....	50¢ (or \$1.50 per day) <sup>4</sup>		50¢ <sup>4</sup>		

<sup>1</sup>35¢ per meal or \$7 for all meals furnished in a week, whichever is the lesser amount (see preceding page).

<sup>2</sup>Applies to hotel and catering industry, including hospitals, sanatoria and nursing homes.

<sup>3</sup>Applies in respect of women workers only.

<sup>4</sup>Applies to hotels, restaurants, educational institutions, hospitals and nursing homes (see preceding page).

The above charges apply generally or to the classes of workplaces indicated. Maximum deductions in construction, mining, primary transportation, logging and sawmill operations in New Brunswick are \$2.10 a day for board and lodging or 70 cents for a single meal. In sawmill and forest operations in Quebec deductions may not exceed \$1.95 a day for board and lodging or 65 cents for a single meal. Charges or deductions for board and lodging in logging and forest operations may not exceed \$2 a day in Nova Scotia or \$2.50 a day in Saskatchewan. In service establishments in Quebec, not more than 20 per cent of an employee's minimum wage may be deducted for heated lodging and not more than 15 per cent of the minimum wage for unheated lodging provided by the employer for the employee.

## 1. Minimum Rates for Experienced Workers\*

Province	Establishment	
	Factories—Shops Offices	Hotels—Restaurants
Newfoundland	Workers 19 and over: 85¢ (women) \$1.10 (men)	Same
Prince Edward Island	Men over 18 <sup>1</sup> \$1.10 women 85¢, increasing to 95¢ on July 1, 1969	Same
Nova Scotia	Workers 18 and over: men \$1.15, Zone I \$1.05, Zone II women 90¢, Zone I 80¢, Zone II	Same
New Brunswick	\$1 <sup>2</sup>	Same
Quebec	Workers 18 and over: \$1.25, Zone I \$1.15, Zone II <sup>3</sup>	\$1.05, Zone I \$1, Zone II
Ontario	\$1.30	\$1.15, increasing to \$1.30 on October 1, 1969
Manitoba	Workers 18 and over: \$1.25	Same
Saskatchewan	Workers 17 and over: \$1.05, ten cities and five-mile radius 95¢, rest of province	Same
Alberta	Workers 18 and over: \$1.25	Same
British Columbia	\$1.25 <sup>4</sup>	Same

\*For description of zones, see pages 30 and 31.

<sup>1</sup>90¢ an hour for male workers in food processing plants.

<sup>2</sup>\$1.25 an hour for sawmill operations.

<sup>3</sup>\$1.25 an hour in Zone I and \$1.15 an hour in Zone II for workers in sawmills; \$1.30 in Zone I and \$1.20 in Zone II for workers in woodworking plants; rates for skilled employees such as machinists and stationary engineers are 15 cents an hour higher than the general rates.

<sup>4</sup>\$1.50 an hour in sawmill and woodworking industries.

## 2. Minimum Rates and Learning Periods for Inexperienced Workers\*

Province	Establishment	
	Factories—Shops Offices	Hotels—Restaurants
Prince Edward Island	Men Except for seasonal or casual workers, minimum rate becomes effective 60 days from date of hiring Women During probationary period of 30 days: 5 cents less than the minimum rate	Same
New Brunswick	During first 4 months of employment: 20 cents an hour less than the minimum rate <sup>1</sup>	Same
Quebec	Workers 18 and over, during first 60 working days: \$1.15, Zone I \$1.05, Zone II	During first 60 working days: 95¢, Zone I 90¢, Zone II
Ontario	During first 4 months of employment: \$1.20 <sup>1</sup>	For first month of employment: \$1, increasing to \$1.15, October 1, 1969 <sup>1</sup>
Manitoba	Workers 18 and over, during first 3 months of employment: 15 cents an hour less than the minimum rate; during second 3 months: 5 cents an hour less than the minimum rate	Same
Alberta	During 2 four-week periods in the garment industry: \$1 (first 4 weeks): \$1.15 (second 4 weeks) <sup>2</sup>	—

\*For description of zones, see pp 30-31. The Newfoundland and Saskatchewan orders make no provision for lower rates for learners. In Nova Scotia, inexperienced workers' rates apply only to beauty parlour employees. Some British Columbia orders make provision for rates lower than the minimum in the first three months of employment. These rates do not apply to the workplaces shown in the table, except to factories in which the fresh fruit and vegetable industry is carried on.

<sup>1</sup>Not more than 20% of the total number of employees in an establishment may be employed as learners.

<sup>2</sup>To pay inexperienced workers' rates, the employer must obtain a permit from the Board. Not more than 25% of the workers employed by an employer in the garment industry may be paid inexperienced workers' rates.

### 3. Overtime Rates

Province	Establishment
	Factories—Shops—Offices Hotels—Restaurants
Newfoundland	1½ times the minimum rate after 48 hours <sup>1</sup>
Prince Edward Island	1½ times the minimum rate after 48 or normal hours, if less (women only)
Nova Scotia	1½ times the minimum rate after 48 hours
New Brunswick	1½ times the minimum rate after 48 hours <sup>2</sup>
Quebec	1½ times the regular rate after 48 hours in factories, shops and offices; 1½ times the minimum rate after 54 hours in hotels and restaurants <sup>3</sup>
Ontario	1½ times the regular rate after 48 hours <sup>4</sup>
Manitoba	1½ times the regular rate after 8 and 44 hours (women) and after 8 and 48 hours (men) <sup>5</sup>
Saskatchewan	1½ times the regular rate after 8 and 44 hours, <sup>6</sup> but after 48 hours in shops and offices in centres with under 500 population, and after 48 hours in hotels and restaurants in centres other than cities <sup>5</sup>
Alberta	1½ times the regular rate after 9 and 44 hours
British Columbia	1½ times the regular rate after 8 and 40 hours <sup>7</sup>

<sup>1</sup>Not applicable to workers employed in fish processing. Shop employees governed by the Hours of Work Act are entitled to one and one-half times the regular rate after 8 hours in a day or 40 hours in a week.

<sup>2</sup>One and one-half times the minimum rate after 54 hours in sawmill operations.

<sup>3</sup>Employees in factories, shops and offices who receive at least \$80 for a standard work week in Zone I and \$70 in Zone II or who, if paid a fixed weekly, monthly or annual salary, receive at least those amounts are not entitled to overtime pay. Workers in hotels and restaurants who are paid on a fixed weekly, monthly or annual salary basis at least \$75 a week in Zone I and \$65 in Zone II are not entitled to payment for overtime. For description of zones, see pages 30 and 31.

<sup>4</sup>Provision for overtime pay is contained in Part III of the Employment Standards Act and in regulations under that Act. One and one-half times the regular rate must be paid after 60 hours for seasonal employees who do not work more than 16 weeks in a year in fruit and vegetable processing; in the hotel, motel, tourist resort, restaurant and tavern industry, seasonal employees who do not work more than 16 weeks in a year and are provided with room and board must be paid one and one-half times their regular rate after 55 hours.

<sup>5</sup>Provision for overtime pay is contained in Part III of the Employment Standards Act in Manitoba and in Hours of Work Act and orders in Saskatchewan.

<sup>6</sup>Overtime payable after 9 and 44 hours in case of a 5-day week.

<sup>7</sup>Where the Board approves an agreement under which hours limits may be exceeded, provided the weekly average over a specified period does not exceed 44 hours, the overtime rate must be paid after an average of 40 hours in a week.

## EQUAL PAY

The Parliament of Canada enacted legislation in 1956, the Female Employees Equal Pay Act, which requires payment of equal remuneration for equal work as between the sexes in employment within federal labour jurisdiction.

Eight provinces — Alberta, British Columbia, Manitoba, New Brunswick, Nova Scotia, Ontario, Prince Edward Island and Saskatchewan — also have equal pay laws. The Alberta legislation forms Part VI of the Alberta Labour Act. In Ontario, equal pay provisions are contained in the Employment Standards Act (Part V). In Nova Scotia and Prince Edward Island, equal pay, fair employment practices and fair accommodation practices laws are combined in one statute (the Nova Scotia Human Rights Act and the Prince Edward Island Human Rights Code). The Quebec fair employment practices law (an Act respecting discrimination in employment) forbids discrimination in employment on the basis of sex, thus prohibiting, *inter alia*, discrimination in rates of pay solely on grounds of sex (see pages 72-3).

The Acts provide for equal pay for equal work without discrimination on grounds of sex, but vary with regard to the definition of what constitutes equal work.

The British Columbia, New Brunswick, Nova Scotia, Ontario and Prince Edward Island Acts refer, with some variations, to "the same" work done or performed in the same establishment.

The British Columbia and New Brunswick Acts forbid an employer to discriminate between his male and female employees by paying a female employee at a rate of pay less than the rate paid to a male employee for *the same work done in the same establishment*.

The Nova Scotia and Prince Edward Island Acts state that an employer may not pay a female employee at a rate of pay less than the rate paid to a male employee for *substantially the same work done in the same establishment*.

The Ontario provisions, as amended in 1968, protect persons of either sex against discrimination in the payment of wage rates and lay down certain criteria for determining whether the work performed by a male employee and a female employee is the same. The employer is prohibited from paying a female employee at a lesser rate of pay than



that paid to a male employee, or vice versa, for *the same work performed in the same establishment, the performance of which requires equal skill, effort and responsibility, and which is performed under similar working conditions.*

An employer is forbidden to reduce the rate of pay of an employee in order to comply with the equal pay requirement. Further, employee or employer organizations may not cause or attempt to cause an employer to pay wages that contravene the equal pay provisions of the Act.

The Saskatchewan Act refers to "comparable" rather than "the same" work. It forbids discrimination in the payment of wages between a female employee and a male employee for *work of comparable character done in the same establishment.*

The federal, Manitoba and Alberta statutes refer to "identical" or "substantially identical" work. The Manitoba Act, like the Ontario Act, forbids wage discrimination against either sex.

Under the Manitoba Act, an employer is forbidden to pay to the employees of one sex wages on a scale different from that on which wages are paid to employees of the other sex in the same establishment, *if the work required of, and done by, employees of each sex is identical or substantially identical.* The federal and Alberta Acts forbid an employer to employ a female employee for any work at a lesser rate of pay than the rate at which he employs a male employee for *identical or substantially identical work.*

By way of clarification, the Acts state that the work of a male and a female employee is to be deemed identical or substantially identical if the job, duties or services the employees are called upon to perform are identical or substantially identical (in Manitoba, "identical or substantially identical in kind or quality and substantially equal in amount").

All the Acts make it clear that a difference in rates of pay based on a factor other than sex does not constitute failure to comply with their requirements. The federal and Manitoba Acts list a number of these factors, stating that a difference in rates of pay of male and female employees based on length of service or seniority, location or geographical area of employment (and, in Manitoba, performance or capacity), or any other factor other than sex considered by a referee or court to justify payment of different rates is not considered to be in contravention of the law.

The Ontario Act contains three specific exceptions in addition to the general exception permitting a differential based on any factor other

than sex. Differences in rates of pay based on (a) a seniority system, (b) a merit system, or (c) a system that measures earnings by quantity or quality of production do not constitute discrimination within the terms of the Act.

"Establishment", as used in the substantive provision of the provincial Acts (except that of Alberta), is defined as a place of business or the place where an undertaking is carried on.

The Manitoba, New Brunswick, Ontario, Prince Edward Island and Saskatchewan equal pay legislation is applicable to provincial government employees. The federal Act covers employees of Crown corporations but does not apply to other federal public servants. Rates of pay of classified public servants are set by classification, according to the type of work performed, without any distinction based on sex.

Ontario equal pay provisions are now enforced through regular inspection by the field staff of the Department of Labour. In the other jurisdictions, the procedure laid down by the Act to enforce equal pay for equal work may be invoked only if the person claiming to have been discriminated against registers a complaint. In Manitoba, the employee must make a complaint within 30 days after receiving his or her first wages at an unlawful rate in order to have it dealt with under the Act.

In Ontario, the Director of Employment Standards (who, under the direction of the Minister of Labour, administers the Employment Standards Act) has authority to determine the amount of wages owing to an employee, where in his opinion an employer has contravened the equal pay provisions. For purposes of enforcement of the Act, such amount is to be deemed unpaid wages.

Where the Director cannot determine the amount owing, the Minister may, on his recommendation, appoint a board of inquiry. A board of inquiry has the powers of a conciliation board under the Labour Relations Act. The board is required to hear the parties and to recommend to the Director the course of action that ought to be followed.

Under the wage collection procedure of the Employment Standards Act, the Director may collect unpaid wages (including overtime pay and vacation pay) for an employee up to a maximum of \$1,000. An employer who disagrees with a determination of the Director has the right to appeal to the Minister, within a period of 21 days after being notified of the determination. The Minister or a person designated by him is required to review the matter at a hearing, giving the employer

full opportunity to make submissions, and to determine the amount owing to the employee.

The Acts that require a person claiming wage discrimination based on sex to register a written complaint lay down a different procedure.

A complaint is to be registered in the federal jurisdiction and in New Brunswick and Prince Edward Island with the Minister of Labour; in British Columbia, Manitoba, Nova Scotia and Saskatchewan, with a designated officer of the Department of Labour (the director); and in Alberta, with the Chairman of the Board of Industrial Relations.

In all these jurisdictions, the legislation provides for an initial informal investigation into a complaint by an officer of the Department of Labour (in Manitoba, by an officer of the Department of Labour or any other person).

In New Brunswick, Nova Scotia and Saskatchewan, if the person designated to make the inquiry is unable to settle the matter, a board or commission of one or more persons may be appointed. In Alberta and British Columbia, the complaint may be referred to an existing board, the Board of Industrial Relations. Under the federal and Manitoba Acts, the second stage of the procedure is the appointment of a referee, who may or may not be an officer of the Department of Labour. In Prince Edward Island, the Minister must inquire into the matter, if it is not settled at the earlier stage.

The Board, commission, referee or Minister is given full powers to conduct a formal inquiry. All the Acts provide that the parties to the complaint must be given an opportunity to present evidence and to make representations.

The recommendations of the board, commission or referee, as the case may be, may be put into effect by an order of the Minister of Labour, except under the federal and Alberta Acts. Under the federal Act, the referee, and under the Alberta Act, the Board of Industrial Relations, is empowered to issue an order. In Prince Edward Island, if the Minister finds the complaint to be justified, he must direct the course of action that ought to be taken and may issue an order to put it into effect. Under all the Acts, compliance with the order is required.

Under the federal Act, the order of the referee may include a requirement to pay any wages owing to the employee as a result of the employer's failure to comply with the Act during a period of up to six months preceding the date of the complaint.

In Manitoba, an information may be laid against an employer who fails to comply with an order of the Minister and the magistrate may order the employer to pay any wages found to be due to the employee.

Provision is made in all the Acts for prosecution in the courts as a last resort. Failure to comply with the Act or an order is made an offence punishable by a fine. In Alberta, the court, in addition to imposing a fine, must order the employer to pay any back wages owing to the employee, covering a period of up to six months before the beginning of the prosecution. Under the federal Act, the employer may also be made liable for payment of wages found to be due, covering a maximum period of six months.

In the federal jurisdiction and in Manitoba, employees bound by collective agreements are in certain circumstances not permitted to make a complaint under the Act. Under the federal Act, the employees excluded are those subject to an agreement which contains an equal pay provision in substantially the same terms as the Act and which sets out a grievance procedure for the settlement of disputes. In Manitoba, no complaint may be made against an employer bound by a collective agreement to which the Labour Relations Act or Part XVIII of the Public Schools Act applies.

Five of the Acts — the federal Act and those of Alberta, Manitoba, Nova Scotia and Prince Edward Island — make it an offence for an employer to dismiss or otherwise discriminate against an employee because he has made a complaint or given evidence under the Act.

## **HOURS OF WORK**

### **FEDERAL**

Hours of work of employees in undertakings within federal labour jurisdiction are regulated by the Canada Labour (Standards) Code, Part I.

The Code sets a standard workday and workweek and requires payment of an overtime rate for work done beyond the hours specified. It also establishes a maximum workweek, overtime hours being restricted to 8 in a week, except in special circumstances.

Under the Code, standard hours (the number of hours that may be worked at regular rates of pay) are limited to 8 in a day and 40 in a



week. Hours in excess of 8 and 40 may be worked, however, provided one and one-half times the regular rate is paid, up to a maximum of 48 hours in a week.

In a week in which an employee is entitled to a holiday with pay (under Part IV of the Code) the overtime rate is to be paid after 32 hours, instead of 40. In calculating overtime for the week, no account is to be taken of any time worked on the holiday.

Since some types of employment may call for a more flexible arrangement of working hours, the Code permits the averaging of hours over a period of two or more weeks. Under a system of averaging, working hours may vary from day to day or from week to week so long as the total standard hours do not exceed 40 multiplied by the number of weeks in the averaging period. The overtime rate (one and one-half times the regular rate) must be paid at the end of the averaging period for all hours worked in excess of such standard hours.

The total number of hours that may be worked by an employee in an averaging period is the product of the number of weeks in the period multiplied by 48.

Averaging is permitted for any class of employees who have no regularly scheduled working hours or who have regular hours but the number of hours scheduled differs from time to time. On notification to the Department of Labour, an employer may select an averaging period of 13 weeks or less.

If an employer requires a longer period for averaging than 13 weeks in order to provide for a period in which fluctuations take place (e.g., where there are seasonal rush and slack periods during the year), he must obtain the approval of the Minister of Labour. The same conditions apply as to a period of 13 weeks or less. The period over which hours may be averaged may be as long as a full year.

An employer who has adopted an averaging plan is required to post clear information about the plan in places where it can readily be seen by the employees affected.

When an employee terminates his employment of his own accord during an averaging period, he is not entitled to overtime pay. If his employment is terminated by the employer, however, he must be paid overtime pay for any hours worked in excess of an average 40-hour week over the period he has worked.



Exceptions from the maximum workweek are permitted in certain circumstances. Work in excess of 48 hours in a week (or the maximum hours established in an averaging period) may be allowed under permit, when the Minister, having given due regard to the conditions of employment and the welfare of the employees, is satisfied that such exceptional conditions exist as to make the working of additional hours necessary.

A permit is issued for a definite period of no longer duration than the time the exceptional circumstances are expected to continue. The permit may specify either the total amount of excess overtime that may be worked in the period or the additional number of hours per day or per week that the employees may work. The number of employees engaged in such excess overtime and the extent of the overtime worked by each must be reported in writing to the Minister within 15 days after the overtime permit expires or within a time fixed in the permit.

Maximum weekly hours may also be exceeded to make up for the time lost due to an accident, breakdown in machinery or other emergency. The employer is required to report such emergency work within a specified time.

The operation of Part I may be deferred or suspended with respect to any undertaking or class of employees for a period of not more than 18 months by an order of the Minister, or, following an inquiry, for a longer period by an order of the Governor in Council, made on the recommendation of the Minister.

An order of the Minister may simply remove the obligation to comply with Part I pending further investigation or it may set hours of work standards to be observed for its duration. An order of the Governor in Council must lay down standards of working hours, and such standards may vary for different periods of time. The order may not be amended or revoked without the holding of a further inquiry.

During 1968 two Orders in Council were issued under the authority of the Code. One — the Transport of Goods by Motor Vehicle Hours of Work Extension Order — suspended the application of Part I of the Code to the interprovincial and international trucking industry for the period from July 1, 1968, to June 30, 1971, and laid down standards of working hours for the industry during the period, in line with the recommendations of a commission of inquiry.

Office workers in the industry are not covered by the Order. These workers became subject to the hours standards of the Code as of July 1, 1968.

From July 1, 1968, to June 30, 1969, maintenance workers will have a maximum workweek of 56 hours, with standard hours of 9 in a day and 48 in a week. From June 30, 1969, to June 30, 1971, the maximum workweek will be reduced to 52 hours, with standard hours of 8 in a day and 44 in a week.

During the same periods, the maximum hours of city drivers, despatchers and warehousemen will be 56 in a week, with standard hours of 9 and 48, and from June 30, 1969, 53 hours in a week, with standard hours of 9 and 45.

In all cases time and one-half the regular rate must be paid after standard hours.

For highway drivers, the Order established alternative methods of limiting hours of work. When hours are not averaged over a period of weeks, maximum hours are 60 in a week. The overtime rate is to be paid for all hours worked in excess of 60 in a week or in excess of 10 without an uninterrupted period of at least 8 consecutive hours.

Alternatively, an employer may average the hours of work of highway drivers. Where hours are averaged, the maximum hours are 55 times the number of weeks in the averaging period. Overtime pay is required for hours worked in excess of the total in the period or in excess of 10 without an uninterrupted period of at least 8 consecutive hours.

The Second Order — the Transport of Mail by Motor Vehicle by Contractors of the Canada Post Office Hours of Work Extension Order — laid down standards similar to those set out above for highway drivers for truck drivers employed by mail contractors of the Post Office. This Order covers the period from September 11, 1968, to June 30, 1971.

The deferment of the operation of Part I of the Code to navigation and shipping expired on December 31, 1968, and Part I became effective in respect of the industry from January 1, 1969.

## PROVINCIAL

### **General Hours of Work Laws**

Five provinces have Acts of general application regulating working hours (the Alberta Labour Act, Part I; the British Columbia Hours of Work Act; the Manitoba Employment Standards Act, Part III; the Ontario Employment Standards Act, Part II; and the Saskatchewan Hours of Work Act). These Acts are of two types.

The Acts of Alberta, British Columbia and Ontario set a maximum number of hours per day and per week beyond which an employee must not work. Hours are limited in Alberta and British Columbia to 8 in a day and 44 in a week and in Ontario to 8 in a day and 48 in a week.

All three laws provide for exceptions in certain circumstances. Exceptions are authorized in orders or regulations or through the issuing of a permit. In both Alberta and British Columbia, the administrative board has authority not only to permit working hours to exceed statutory limits but also to fix the minimum wage payable for overtime. In both provinces the board has made special orders for a considerable number of industries, permitting variations from the daily and weekly hours specified in the Act or exempting workers entirely from hours limitations.

In Ontario, the Director of Employment Standards may, by permit, authorize hours of work in an establishment in excess of 8 and 48, subject to specific limits laid down in the Act. The limit for overtime is 12 hours in a week for an engineer, fireman, full-time maintenance man, receiver, shipper, delivery truck driver or his helper, watchman, or any other person who, in the opinion of the Director, is engaged in a similar occupation. For all other employees (excluding girls under 18) the limit for excess hours is 100 hours in each year for each employee.

The Director may also issue a permit authorizing working hours in excess of the overtime limits set out above, if he is satisfied that the nature of the work or the perishable nature of the raw material being processed requires the excess hours.

In no case may a girl under the age of 18 work more than 6 hours overtime in a week.

Subject to certain exceptions set out in the regulations, one and one-half times the regular rate must be paid for work done, under permit, beyond 48 hours in a week.

Taxi drivers, ambulance drivers and their helpers are not entitled to overtime pay. Employers in the logging industry are exempted from the requirement to pay the overtime rate after 48 hours during the period from January 1 to March 31, 1969. In certain other industries — highway transport, local cartage, road building, sewer and watermain construction, the hotel, motel, tourist resort, restaurant and tavern industry (seasonal employees) and fruit and vegetable processing (seasonal employees) — extended hours, 50, 55 or 60, as the case may be, may be worked before the overtime rate applies.

The Manitoba and Saskatchewan Acts set standard hours as opposed to maximum hours. They do not limit the hours which may be worked in a day or in a week but require the payment of time and one-half the regular rate after a specified number of daily or weekly hours. To prevent the working of excessively long hours, the Saskatchewan Legislature amended its law in 1958, empowering the Lieutenant Governor in Council to limit daily hours in any occupation to 12, except in special circumstances or when permission to work longer hours has been obtained from the Minister of Labour. Only one such regulation has been made, setting a daily limit of 12 hours for highway construction and maintenance.

The Manitoba law requires payment of the overtime rate (time and one-half) after 8 and 48 hours (44 for women).

The Saskatchewan Act requires payment of the overtime rate after 8 and 44 hours.

The Manitoba and Saskatchewan laws also provide for exceptions. The Manitoba law permits working hours to be varied in certain circumstances without payment of the overtime rate. The Manitoba Labour Board must review once a year any orders it makes under this authority.

In Saskatchewan, it has been necessary to provide for some relaxation of the provisions of the Act, and regulations permit a 48-hour week to be worked in workplaces, other than factories, in the smaller centres before overtime rates apply. Other regulations permit hours to be averaged over a specified period, thus allowing some variation from week to week. Certain classes of employees have been entirely exempted from the Act, with the result that these classes have no entitlement to overtime pay.

Under all the Acts, there is provision for working daily hours in excess of 8 in order to establish a 5- or 5½-day week, so long as weekly hours are not exceeded. There is also provision, except in Saskatchewan, for hours to be exceeded in emergencies.

Maximum hours fixed under provincial hours of work laws and the application of each Act in general terms are set out below.

Province	Daily and Weekly Limits	Application
Alberta	8, 44	All employment except farm labour and domestic service. Exceptions allowed for some industries (e.g., trucking, taxicab, lumbering, highway and pipeline construction).
British Columbia	8, 44	Applies to industries in Schedule, including: <div style="display: flex; justify-content: space-between;"> <div> mining  manufacturing  construction  barbering  mercantile  elevator operators </div> <div> baking  catering  hotel clerks  truck drivers  bus operators </div> </div> Exceptions allowed for some industries (e.g., trucking, logging, fruit and vegetable canning, bus operators).
Ontario	8, 48	Applies to employees with the exception of: Persons employed in construction, commercial fishermen, farm workers, municipal firemen and policemen, resident janitors or caretakers, commission salesmen, domestic servants, fishing or hunting guides and a few other classes of employees.
Manitoba	Limits of 8, 48 (men) and 8, 44 (women) apply unless time and one-half the regular rate is paid.	Applies to most employment. Farming, domestic service, fishing and construction excluded.
Saskatchewan	Limits of 8, 44 (8, 48, except for factories, in smaller centres) apply unless time and one-half the regular rate is paid.	Most employment. Farm workers, domestic servants in private homes, janitors in residential buildings, logging, fishing and fish processing, road construction excluded. Exceptions allowed for some industries (e.g., oil truck drivers, newspaper staff, pipeline construction).

### Other Legislation Restricting Hours

Apart from general hours of work laws, other statutes regulate working hours in some industries. Schedules under industrial standards



legislation in six provinces, and decrees under the Quebec Collective Agreement Decrees Act regulate hours in construction and other industries. Schedules and decrees apply to designated zones; a number apply throughout the province. Generally speaking, standard weekly hours for the construction trades range from 40 to 48, but 50-, 54- and 55-hour limits are in effect in some areas of Quebec. A 40-hour week is the usual standard in the larger centres. In another industry regulated by schedules and decrees in Ontario and Quebec, the manufacture of men's and ladies' clothing, standard weekly hours are usually 37½ or 40. In one branch of the industry, standard weekly hours have been reduced to 36 and a 35-hour week will go into effect in 1970.

In Manitoba, maximum hours which may be worked at regular rates are set under the Construction Industry Wages Act, which applies to both private and public construction work. At the present time a 40- or 42½-hour week is in effect for most classifications of construction work in the Greater Winnipeg area, and a 48-hour week in the rest of the province. In the heavy construction industry, the maximum hours of work payable at regular rates are 60 except in Metropolitan Winnipeg during the period from November 1 to April 30, when a 48-hour week is in effect.

Mining legislation in New Brunswick and Nova Scotia, which sets a maximum 8-hour day for underground work in mines, provides the only statutory regulation of hours of work of miners in those provinces; hours of work Acts apply to mining in other provinces.

Working hours of women and young persons are restricted by the New Brunswick Minimum Employment Standards Act and by factory legislation in two other provinces. Under the New Brunswick Minimum Employment Standards Act, which is applicable to any place of employment other than a private home or a farm, hours of women and boys under 18 years are limited to 9 in a day and 48 in a week, unless special permission to work longer hours is obtained from the Minister of Labour. Quebec factory law restricts hours of women and boys under 18 to 9 in a day and 50 in a week in factories and to 54 hours in a week in commercial establishments. In Saskatchewan, women and boys under 18 employed in factories are prohibited from working more than 48 hours in a week.

The minimum wage regulations in Manitoba limit the number of hours of overtime which women may work to 3 in a day, 12 in a week and 24 in a month.

In Newfoundland, the Hours of Work Act limits working hours of shop employees anywhere in the province to 8 in a day and 40 in a week, unless one and one-half times the regular rate is paid.

In all provinces except Manitoba, Ontario and Saskatchewan, there is also some indirect regulation of hours by virtue of provisions in minimum wage orders requiring the payment of an overtime rate after a specified number of hours of work.

A minimum wage order of considerable significance with regard to working hours because of its wide coverage is General Minimum Wage Order 4 in Quebec. Order 4 is a blanket order applying to all employees in the province except those covered by decrees, workers governed by special minimum wage orders, farm workers, domestic servants, workers whose hours cannot be controlled and a few other minor groups. The minimum rates set by Order 4 apply to a standard workweek of 48 hours, after which an overtime rate of one and one-half times the regular rate must be paid. Exemptions are permitted, however, from the requirement to pay the overtime rate, and the determining factor is the amount of pay received for the regular workweek. Workers receiving at least a specified weekly amount are not entitled to overtime pay. Certain other classes of employees are excluded from the overtime provisions of the Order.

In British Columbia, in an increasing number of minimum wage orders, payment of time and one-half the regular rate is required after 40 hours in a week. The 40-hour standard workweek, after which the overtime rate is to be paid, is now in effect in factories, shops, offices, hotels and catering, laundries, fish processing, construction, the logging, sawmill, woodworking and Christmas-tree industries, hairdressing and in a considerable number of other employments.

In Saskatchewan, the Minimum Wage Board has no authority to fix overtime rates. All overtime pay requirements are laid down in the Hours of Work Act and orders under it. In Manitoba, overtime pay requirements are contained in Part III of the Employment Standards Act. In Ontario, overtime pay is required under the Employment Standards Act and regulations.

Overtime rates fixed under provincial minimum wage orders are shown on page 39.

### **Night Work for Women**

In Quebec, under the Industrial and Commercial Establishments Act, as amended in 1968, women are permitted to work on the night

shift under certain conditions. Previously, women were forbidden to work after midnight.

The Act authorizes the Minister of Labour to grant a permit allowing women 18 and over to work on a third shift in an industrial establishment, if he is satisfied that the nature of production, market conditions and other special circumstances require it. Before ruling on an application for a permit, the Minister must request the opinion of the certified trade union.

Hours of work on the third shift may not exceed eight, and work must not begin before 11 p.m. or after midnight. A lunch break of at least 30 minutes must be allowed around the middle of the shift, and two rest periods of 10 minutes each must be granted in the intervals before and after the refreshment period. Wage rates for the night shift must not be less than those for the two other shifts, and, if premium pay is given for night work, it must be paid to the women employees on the shift.

The employer must ensure the safety of women who leave work before 7 a.m. by providing them with convenient and safe transportation to their homes at his expense.

The Lieutenant Governor in Council may make regulations regarding permits for night work of women, including the conditions that must be observed, the number of women required in each room or workshop, and the number of supervisors required and their qualifications.

In Ontario, no girl under 18 may work in an establishment between midnight and 6 a.m. If the work period of a female employee of 18 or over begins or ends between midnight and 6 a.m., her employer must provide her with private transportation at his expense from her residence to the place of work or from the workplace to her home.

An order under the Alberta Labour Act prohibits the employment of women on shifts which begin or end between midnight and 6 a.m. unless the employer provides free transportation for the employee to or from her place of residence. Any period during which the employee is required to wait on the employer's premises for transportation to her place of residence is to be deemed working hours. The order applies to women employees in cities and towns having a population of over 2,000 and within a five-mile radius, with the exception of those employed in hospitals and nursing homes, other than office staff, and domestic servants in private homes.

Manitoba minimum wage regulations contain a similar provision, requiring employers to provide women employees whose work begins or ends between midnight and 6 a.m. with adequate transportation, without cost to the employee, between the place of residence and the place of employment.

In Saskatchewan, women employees in hotels, restaurants, educational institutions, hospitals and nursing homes who are required or permitted to finish work between 12.30 a.m. and 7 a.m. must be provided by the employer with free transportation to their homes. Nurses, nursing assistants and student technicians are not covered by this provision.

## WEEKLY REST-DAY

The Canada Labour (Standards) Code (Section 7) provides that employees must be given at least one full day of rest in the week, on Sunday wherever possible.

Two exceptions from this general rule are provided for in the regulations. A weekly rest-day does not need to be granted where working hours are averaged over a specified period.

Where working hours in excess of 48 in a week are allowed under a permit from the Minister of Labour, the Minister may specify in the permit that a weekly rest need not be scheduled, as required by the Code, and may prescribe alternative periods of rest.

Nine provinces — Alberta, British Columbia, Manitoba, Newfoundland, New Brunswick, Nova Scotia, Ontario, Quebec and Saskatchewan — provide for a weekly rest-day but the provisions vary in scope.

The Alberta Labour Act requires all employed persons except farm workers and domestic servants to be given a day of rest immediately following each period of not more than six consecutive days of work, unless the Board of Industrial Relations orders that the hours of rest be allowed in two periods or that a longer period than 24 hours be granted. The Act enables the Board to make special provision for days of rest in continuous industries and permits a consecutive rest period to be granted every four weeks or in relation to some other work period which the Board may deem proper. Under this authority the Board has made special provision for accumulated days of rest in the highway construction, geophysical exploration, land surveying, brush clearing, oil well



drilling, oil well service and pipeline construction industries and for cooks, night watchmen, etc., in lumber camps.

Orders under the British Columbia Minimum Wage Acts provide for a rest period of 32 hours weekly for workers in factories, shops, offices, hotels and catering, laundries, hospitals, the logging, sawmill, woodworking and Christmas-tree industries, shipbuilding, for first aid attendants, for elevator operators, for men in undertaking establishments, for janitors, for patrolmen, for taxicab drivers and for bicycle-riders and foot-messengers employed exclusively on delivery. The general minimum wage order issued in 1967 also provides for a 32-hour weekly rest. Different arrangements may be made on application of the employer and employees concerned, if the Board approves. An order governing employees in resort hotels in unorganized territory during the summer season provides for a weekly rest of 24 hours.

In Manitoba, a weekly day of rest, if possible Sunday, must be granted to employees in mining, manufacturing, shops, offices, catering, barbering and hairdressing, the insurance business, the baking industry, the transport of goods by road, the processing and distribution of milk and its products and to elevator operators and hotel clerks. Exempted are watchmen, janitors and firemen living in the building in which they are employed; managers and supervisory employees; repair workers in emergencies; and persons employed for not more than three hours on a weekly rest-day merely for the purpose of looking after horses as part of their usual duty. The Minister of Labour is given discretion to exempt a particular undertaking from the application of weekly rest provisions for a fixed period or indefinitely. Where a plant is exempted, each employee must be given an additional holiday without pay for each weekly day of rest to which he would have been entitled except for the permit of exemption, and the holidays may be accumulated.

In Newfoundland, the Hours of Work Act, which applies to shops throughout the province, requires shop assistants to be given a day off each week in addition to Sunday, except in the weeks in which eight specified holidays occur. In the weeks in which five other specified holidays occur, they must be given a day off in addition to Sunday and the holiday.

The New Brunswick Minimum Employment Standards Act requires employers to give their employees a weekly rest of at least 24 consecutive hours, to be taken if possible on Sunday. Where a weekly rest is impracticable, the Minister of Labour may permit rest periods



to accumulate and to be taken later, either part at a time or all together. The only employees not covered are farm workers, employees required to cope with an emergency and part-time workers who are not usually employed more than five hours in a day. Certain groups of employees may be designated by the Lieutenant Governor in Council as being outside the scope of the Act.

In Nova Scotia, every employer in mining, manufacturing and construction is required to grant his employees a weekly rest of at least 24 hours. Wherever possible, the period of rest must be on Sunday and must be granted simultaneously to the whole of the staff of each undertaking.

In Ontario, in cities of 10,000 or more people, workers in hotels and restaurants must be allowed a weekly rest-day, Sunday if possible. Watchmen, janitors, foremen, and those employed for five hours or less in a day are exempted.

In Quebec, Minimum Wage Order 4, applying generally to all industries within the scope of the Act not covered by special orders, provides for a weekly rest of at least 24 consecutive hours or two periods of 18 consecutive hours each for the employees covered by its provisions. Farm workers, domestic servants and employees covered by decrees under the Collective Agreement Decrees Act are the only workers not within the scope of the Minimum Wage Act. Six special minimum wage orders contain the same provision as Order 4. Under the Quebec Weekly Day of Rest Act, persons employed in hotels, restaurants or clubs in places of at least 3,000 population must have 24 consecutive hours of rest in a week. In the Quebec district, the inspector may permit two periods of 18 consecutive hours each instead of one 24-hour period. Where there is only one cook, the 24-hour rest may be replaced by two 12-hour periods.

The Saskatchewan statute provides for a weekly rest of at least 24 hours, wherever possible on Sunday, for the employees of any employer covered by an order of the Minimum Wage Board. (Only agriculture, domestic service and a few other occupations are not covered by minimum wage orders.) Exempted are managers, employees not usually working for more than five hours in a day, and repair men in emergencies. The Minister of Labour may exempt particular employers for not more than one year. Any specified class of employers may be excluded by Order in Council, subject to such conditions as may be prescribed.

## ANNUAL VACATIONS WITH PAY

Annual vacations with pay have been provided for by law in the industries subject to federal labour jurisdiction since 1958. The first federal law, the Annual Vacations Act, required employers within its scope to grant their employees paid vacations of one week after one year of employment and two weeks after two years of service. This Act was replaced by Part III of the Canada Labour (Standards) Code, which provides for a vacation with pay of at least two weeks after every completed year of employment. Vacation pay is 4 per cent of wages for the year in which employees establish their claim to a vacation.

A year of employment, under the federal law, must be continuous with one employer, and may be a 12-month period commencing with the day the employee began to work for the employer or any subsequent anniversary of that date, or it may be a calendar year or another year approved by the Minister of Labour.

Of the ten provinces, all except Newfoundland have annual vacations legislation. The provisions regarding annual vacations with pay are contained in the Alberta Labour Act and in two orders under it (a general order and a special order for the construction industry); in the Ontario Employment Standards Act and regulations; and in Quebec Minimum Wage Orders 3, 7 and 9\*. British Columbia now provides for annual vacations with pay and public holidays in one statute, the Annual and General Holidays Act. The other five provinces have separate annual vacations laws. Vacation with pay provisions are also contained in most decrees under the Quebec Collective Agreement Decrees Act†. Some industrial standards schedules make provision for pay in lieu of annual vacations.

The Canada Labour (Standards) Code applies to industries within federal jurisdiction and the only employees excluded are those who are managers or superintendents or who exercise management functions.

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\*The legislation described in this section is Minimum Wage Order 3. Order 9 of the Minimum Wage Commission governing forest operations provides that every employee must be given vacation pay equal to 2 per cent of earnings on termination of employment or, if employment has been continuous for the previous 12 months, during the month of May of each year. Order 7 governing the shoe industry requires every employer to grant his employees two consecutive weeks of vacation, with vacation pay at 4 per cent of wages, every year. Except for office workers, watchmen and instock employees, the vacation period must be the second and third weeks of July.

†Provisions for an annual vacation with pay or pay in lieu of a vacation vary in the approximately 100 decrees in effect under the Collective Agreement Decrees Act and are not dealt with in this publication. The Department of Labour or Minimum Wage Commission has no jurisdiction with respect to the administration and enforcement of the decrees, which are under the supervision of the parity committee concerned.

and members of the medical, dental, architectural, engineering, legal and scientific professions.

The provincial laws govern employees in employment within the jurisdiction of the province, with the exception of the classes of employees noted below.

Farm workers are excluded in all provinces. In addition, British Columbia excludes persons employed in horticulture; Manitoba and Saskatchewan, in ranching and market gardening. (In Ontario, workers in certain occupations related to farming are covered, e.g., raising of fur-bearing animals, egg grading, greenhouse and nursery operations, the growing of flowers for the retail and wholesale trade, silviculture, tree trimming and surgery). Domestic servants are exempted in all provinces except Saskatchewan but in Prince Edward Island the exclusion is limited to domestic servants who are employed for a period of less than two months.

Also excepted are workers employed in lumbering in Nova Scotia, workers employed in commercial fishing in Nova Scotia, Ontario and Prince Edward Island, and workers employed in canneries that operate less than four continuous months in a year in Prince Edward Island.

Professional workers are excluded in British Columbia and Ontario, public school teachers in Prince Edward Island, and members of family undertakings in Saskatchewan. Salesmen paid entirely by commission are excluded in Alberta, Ontario and Quebec. Special categories of salesmen, such as real estate and insurance agents, are also outside the scope of the Alberta and Quebec vacation orders. Part-time workers employed four hours or less in a day or 24 hours or less in a week are not covered in New Brunswick and Prince Edward Island; those regularly working less than three hours in a day are excluded in Quebec; and those employed for eight hours or less in a week are exempted from the Alberta order.

In Quebec, members of the clergy or of a religious institution, persons employed by religious institutions, teachers employed by school commissions, certain classes of students, psychiatric hospital patients who, with the approval of officers of the Department of Health, are assigned to an employer for social rehabilitation purposes, and the husband or wife and children of the employer are not entitled to an annual vacation or vacation pay.

The large group of workers governed by decrees under the Collective Agreement Decrees Act are also outside the scope of the Quebec vacation order (see footnote on page 57). Workers governed by a collective agreement in British Columbia are exempted from the Act

if the Minister of Labour approves the vacation provisions of the agreement.

In New Brunswick and Prince Edward Island, the vacation with pay to which a worker is entitled under the law is one week after a year of employment; in Ontario, workers are entitled to a vacation of one week after each of the first three years of employment and to two weeks after the fourth year and each subsequent year; under the Canada Labour (Standards) Code, and in Alberta, British Columbia, Manitoba, Nova Scotia and Quebec, a vacation of two weeks must be granted after a year of employment.

The Saskatchewan Act provides for an annual paid vacation of two weeks after each of the first four years of service and of three weeks after the fifth year and each year thereafter. The period of five years of employment with the same employer necessary for an employee to qualify for a three-week vacation may be continuous or may be made up of "accumulated" years, provided that no break in employment exceeds 6 months (182 days). The Saskatchewan Act provides also that a system of cumulative vacations may be established by regulations, under which an employee may, by agreement with his employer and with the approval of the Minister, postpone one week of his vacation each year for a period not exceeding four years.

The length of the vacation period and the vacation pay requirements in the various jurisdictions are shown in the table below:

Province	Length of Annual Vacation	Vacation Pay
Federal	2 weeks	4% of annual earnings
Prince Edward Island	1 week	2% of annual earnings
Nova Scotia	2 weeks	4% of annual earnings
New Brunswick	1 week	2% of annual earnings
Quebec	2 weeks	4% of annual earnings
Ontario	1 week; 2 weeks after 4 years' service	2% of annual earnings in first three years; 4% of annual earnings after fourth year
Manitoba	2 weeks	Regular pay
Saskatchewan	2 weeks; 3 weeks after 5 years' service	1/26 of annual earnings in first four years; 3/52 of annual earnings after fifth year
Alberta	2 weeks	Regular pay
British Columbia	2 weeks	4% of annual earnings



In Quebec, if a worker has not completed a year's service for the same employer, he is entitled to a continuous vacation of one day for each working month. Similarly, in Saskatchewan, regulations provide that, in order to make the vacation entitlement date of his employees uniform, an employer may grant to an employee with less than a year's service a continuous vacation of one day for each month of employment. The Board of Industrial Relations in Alberta may, in making a vacation pay order, require an employer to give an employee who has not completed a year of employment a vacation in proportion to the time worked.

Several of the laws specify the working time constituting a year of employment. In British Columbia and New Brunswick, a year's service consists of not less than 225 working days (in New Brunswick, working days or shifts). In Manitoba, an employee is held to have completed a year's service if he has worked not less than 95 per cent of the regular working hours during a continuous 12-month period. In Alberta, Nova Scotia and Prince Edward Island, the employee must have worked 90 per cent or more of the working time during the year (of the regular working days in the establishment in Alberta and of regular working hours in Nova Scotia and Prince Edward Island).

Where a worker has worked less than the prescribed working time for a year's continuous service and continues to work for the same employer, he is entitled to an annual vacation on a pro rata basis in Alberta, and to accrued vacation pay for the period worked during the year in British Columbia, New Brunswick and Nova Scotia (at the rate of 4 per cent of earnings in British Columbia and Nova Scotia and at the rate of 2 per cent in New Brunswick). The vacation pay is payable in New Brunswick not later than the next regular pay period after the end of the vacation pay year, and in the other two provinces within a month after the anniversary date of the workman's employment. A worker in the construction industry in Ontario whose employment with his employer extends beyond June 30 (the date fixed for cashing of stamps) must be given vacation stamps on that date equal in value to 2 or 4 per cent of his earnings, as the case may be, during the preceding period of employment.

The employer may determine the time when each of his employees may take the annual vacation to which he is entitled, within certain limits laid down by law. The vacation must be given in New Brunswick not later than 4 months after June 30; in Saskatchewan within 10 months, and in the federal jurisdiction, British Columbia, Manitoba, Nova Scotia, Ontario and Prince Edward Island, not later than



10 months, after the date on which the employee becomes entitled to a vacation; in Quebec within 12 months, and in Alberta not later than 12 months, after the date of entitlement.

An employer in a federal undertaking is required to pay his employees their vacation pay at least one day before the beginning of the vacation, except in cases where it is the custom of the establishment to pay vacation pay on the regular payday during or immediately following an employee's vacation. Most of the provincial laws also require vacation pay to be paid at least one day before the vacation begins. The Quebec order simply states that vacation pay is to be paid before the employee's departure on vacation. In Saskatchewan, an employer must pay an employee his vacation pay during the 14 days immediately preceding the beginning of the vacation.

The Canada Labour (Standards) Code and four of the provincial laws stipulate that an employee's annual vacation is to be extended by one day in lieu of a public holiday that occurs during the vacation. (In Manitoba and Saskatchewan, a holiday is defined as a day for which he is entitled to be paid wages without being present at work.) The federal and Saskatchewan laws provide further that for the extra day the employee is to be paid the wages to which he is entitled for the holiday.

Under the federal law and all nine provincial laws, workers are entitled to vacation pay on termination of employment during a working year.

Two of the laws provide, however, that a worker must have completed a minimum period of service in order to be entitled to vacation pay on termination of employment. Under the federal Act, an employee must have been continuously employed by the employer for a period of 30 days or more in order to be eligible for vacation pay. In Nova Scotia, the minimum period of service specified is three months.

The vacation pay payable on termination of employment is 4 per cent of the employee's total earnings for the period of his employment under the federal Act and in British Columbia, Nova Scotia and Quebec; 4 per cent of his regular pay in Alberta and Manitoba; 2 per cent of the employee's total earnings for the period of his employment where the employee has completed less than 36 months of employment and 4 per cent where the employee has completed 36 or more months of employment in Ontario;  $1/26$  or  $3/52$  of total earnings, depending on the year of employment, in Saskatchewan; and 2 per cent of total earnings in New Brunswick and Prince Edward Island.

In Nova Scotia and Ontario, a stamp system is used for the payment of vacation pay in the construction industry. In Ontario, workers must be given vacation stamps when employment with an employer ends. The employer is required to affix stamps equivalent in value to 2 or 4 per cent of the worker's earnings, as the case may be, and to return the book within 10 days after the worker who has ceased to be employed presents it. In Nova Scotia, the employer must furnish each hourly paid employee with a stamp book, if he does not have a current one, and place in it stamps equivalent to 4 per cent of the employee's earnings within three days after each payday. Stamps may be exchanged for their cash value at a savings bank at any time after the anniversary date of the worker's employment in Nova Scotia, and after June 30 in each year in Ontario. The stamp system in Ontario is to be phased out between January 1 and June 30, 1970.

In Alberta, employers in the construction industry must give each employee (except office staff) vacation credits at the end of each regular pay period. The vacation credits (4 per cent of the employee's regular earnings) are to be recorded in the employer's payroll. The employee must be given the amount of money equivalent to his accrued vacation credits on December 31 or on termination of employment. If he is entitled to an annual vacation, he must be paid his vacation pay the day before his vacation commences.

## **PUBLIC HOLIDAYS**

### **FEDERAL**

Under the Canada Labour (Standards) Code, Part IV, eight public holidays in a year are to be observed as paid holidays.

An employee employed in an industry to which the Code applies is entitled to a holiday with pay on each of the following general holidays: New Year's Day, Good Friday, Victoria Day, Dominion Day, Labour Day, Thanksgiving Day, Remembrance Day and Christmas Day. The Code provides also that, under certain conditions, an alternative holiday may be substituted for any of the eight holidays specified.

Should a holiday occur on a day on which an employee does not normally work, he must be granted a day off with pay in lieu of the holiday, either at a time convenient to him and his employer or by the addition of a day to his annual vacation.

If Christmas, New Year's Day or Dominion Day falls on a Saturday or Sunday that is a non-working day for an employee, he must be given

a holiday with pay on the working day immediately before or after the general holiday. These provisions regarding alternative days off do not apply, however, to employees covered by a collective agreement that entitles them to at least eight paid holidays a year.

The Code lays down the general principle that an employee in a federal undertaking who does not work on a holiday is entitled to his regular pay for the day. If he is paid by the week or month, his wages must not be reduced by reason of his not working on a holiday. If he is paid on any other basis, he must receive the equivalent of a normal day's pay.

An employee in a federal undertaking who is required to work on a general holiday (other than one employed in a "continuous operation") is entitled to his regular wages for the day and, in addition, to time and one-half his regular rate for all time worked. In effect, he is paid two and one-half times his usual rate.

An employee employed in a "continuous operation" (defined to include employment concerned with the operation of trains, planes, ships, trucks and other vehicles, telephone, radio, television and telegraph services, or any other service normally carried on without regard to Sundays or holidays) who is required to work on a holiday *either* must be paid his regular wages for the day, plus time and one-half his regular rate for all time worked *or*, in addition to his regular pay for the day, must be granted a holiday with pay at some other time, either a day added to his annual vacation or another day convenient to him and his employer.

There are some situations in which an employee is not entitled to holiday pay. An employee is not entitled to pay for a general holiday that occurs in his first 30 days of employment with an employer, but if he is required to work on a holiday he must be paid time and one-half his regular rate. If he is employed in a continuous operation, he may be paid at his regular rate for work done on a holiday.

A further exception is that an employee is not entitled to pay for a general holiday on which he does not work if he is not entitled to wages for at least 15 days during the 30 calendar days immediately preceding the holiday.

An employee in a continuous operation is not entitled to pay for a general holiday if he did not report for work in response to a call from the employer.

Special regulations for longshoremen provide that a longshoreman employed by an employer who is a member of a "multi-employer unit" is entitled to holiday pay if he is entitled to wages for at least 15 days or 120 hours in the 30 calendar days immediately preceding a general holiday. Pay for the holiday may not be less than eight times the employee's basic hourly wage rate.

A longshoreman employed by an employer who is not a member of a "multi-employer unit" must be paid, on each payday, in lieu of general holidays, an amount equal to 3 per cent of his basic wage rate multiplied by the number of hours he has worked for the employer in the pay period.

An employee who is required to work on a general holiday is to be paid at not less than one and one-half times his basic rate of wages for the time worked by him on that day.

#### PROVINCIAL

Six provinces — Alberta, British Columbia, Manitoba, Nova Scotia, Ontario and Saskatchewan — have enacted legislation of general application dealing with public holidays. Three provinces (Saskatchewan, British Columbia and Alberta) have legislation similar in principle to the federal holiday provisions, and three (Manitoba, Ontario and Nova Scotia) have regulated pay for work on public holidays.

##### *Saskatchewan*

In Saskatchewan, a minimum wage order requires employees who do not work on any of eight public holidays to be paid their regular pay. For workers in the construction industry and in logging and lumbering the order provides for payment of a lump sum in lieu of pay for the eight listed holidays. The eight holidays are New Year's Day, Good Friday, Victoria Day, Dominion Day, Labour Day, Thanksgiving Day, Remembrance Day and Christmas Day.

When Christmas or New Year's Day falls on Sunday, the following Monday is to be observed as a holiday. When the Monday following Remembrance Day is declared a holiday, it is to be observed as a holiday under the order. By agreement between an employer and a trade union representing a majority of the employees in an appropriate bargaining unit, another working day may be substituted for any of the eight listed holidays. Where workers are not represented by a trade union, the Minister of Labour may by order permit a similar substitution, if he is satisfied that the employer and a majority of the employees are in favour of the change.



The order applies to all employees except nurses, student nurses, nursing assistants and technicians; resident janitors or caretakers; employees to whom the Fire Departments Platoon Act applies; employees of a rural municipality employed solely on road maintenance; and persons employed in a managerial capacity.

If required to work on a holiday, employees in almost all workplaces must receive, in addition to their regular pay for the holiday, time and one-half the regular rate for every hour or part of an hour worked, in effect, two and one-half times their regular pay.

A major exception to the above rule is that workers in hotels, restaurants, hospitals, nursing homes and educational institutions who are required to work on a holiday must be paid, in addition to their regular pay, wages at the regular rate, or they may be given time off equivalent to the hours worked on the holiday at regular rates within four weeks.

Persons engaged in the operation of a well-drilling rig are required to be paid at their regular rate of wages, plus their normal pay for the day, for work performed on a holiday.

The order provides that, where an employee's wages, exclusive of overtime, vary from day to day, pay for a public holiday is to be calculated on the basis of his average daily wage, exclusive of overtime, for the four immediately preceding days that bear the same name as the day on which the holiday occurs.

Workers in the construction industry who do not work on any of the eight specified holidays must be given holiday pay in a lump sum in an amount equal to 3 per cent of their gross wages for the calendar year, exclusive of overtime. Payment must be made on December 31 or on termination of employment, whichever occurs first.

Workers who work on the holidays must be paid, in addition to the lump sum payment, wages at the rate of time and one-half their regular rate for all time worked. The latter amount must be paid in the pay period in which it is earned.

Workers in the logging and lumbering industries must also be given a lump sum payment equal to 3 per cent of their gross wages, exclusive of overtime. The provisions applicable to these workers are the same as those governing construction workers, with one exception. Workers in



logging and lumbering who work on a public holiday must be paid regular pay (rather than time and one-half the regular rate) for all time worked, in addition to the lump sum payment to which they are entitled.

Construction workers in logging and lumbering who are represented by a trade union have an option as to payment for public holidays not worked. Where a majority of the employees in an appropriate bargaining unit are represented by a trade union, the union and the employer may, by agreement in writing, elect that the workers be paid regular wages for each holiday, instead of a lump sum payment.

### *Alberta*

In Alberta, a general holiday order requires employers to give their employees five paid holidays a year — New Year's Day, Good Friday, Dominion Day, Labour Day and Christmas Day.

The rule is that, if one of the five "general holidays" falls on a regular working day for the employee and he does not work on that day, he is entitled to his regular wages for the day.

If the employee is hired by the week or month, his wages must not be reduced by reason of his not working on the holiday. If he is paid on a daily or hourly basis, he must be paid at least the equivalent of the wages he would have earned for his normal hours of work. If his wages are calculated on other than an hourly, daily, weekly or monthly basis, he must receive the equivalent of his average daily earnings, exclusive of overtime, for the four weeks he worked immediately preceding the week in which the holiday occurred.

Where an employee is required to work on a general holiday, he must be paid his regular pay for the day and, in addition, his normal wages for all time worked, or he must be given a holiday with pay at some other time not later than his next annual vacation or on termination of employment, whichever occurs first.

An employee is not entitled to a holiday with pay if he has not worked for his employer for at least 30 days in the preceding 12 months; or if he does not work on the holiday when he has been required or scheduled to do so; or if he is absent without the employer's consent on either of the working days immediately preceding or following the holiday. If such an employee works on a general holiday, he must be paid at least his normal wages for all time worked.

If an employee is not required to work on a general holiday, he must not be required to work on another day of that week that would

otherwise be a day of rest, unless he is paid his normal wages for the day, in addition to all other wages due him.

The order does not apply where, by agreement, contract of service or custom, an employee receives at least an equivalent sum in respect of general holidays, in addition to any wages earned on such days.

Construction workers in Alberta, with the exception of office staff, must be given holiday pay in a lump sum in lieu of being given a holiday with pay on each of the five general holidays.

An employer in any branch of the construction industry is required to pay each of his employees a sum equal to 2 per cent of his regular pay for the period of his employment or the period since he was last paid such sum, whichever is shorter. Pay in lieu of holidays must be given on December 31 of each year or on termination of employment, whichever occurs first.

### *British Columbia*

In British Columbia, an order made under the Annual and General Holidays Act provides for eight paid general holidays a year, the same holidays as those provided for in the federal and Saskatchewan legislation. Another day may be substituted for any of the listed holidays.

The order does not apply to employees covered by a collective agreement under the Labour Relations Act. Also excluded are farm workers, horticultural workers, domestic servants, professional employees and trainees, salesmen of automobiles and other vehicles, mobile homes and heavy duty industrial equipment, and employees exempted by regulation from the Minimum Wage Acts (e.g., commercial travellers, employees of the Pacific Great Eastern Railway, handicapped employees and supervisory, managerial and confidential employees).

An employee who is not required to work on a general holiday that would otherwise be a working day must be paid his regular pay for the day. If he is paid by the week or month, his wages must not be reduced by reason of his not working on a holiday. If he is paid on any other basis, he must receive the equivalent of a normal day's pay.

Where an employee's working hours vary from day to day, or where his wages are not calculated on a time basis, his pay for a general holiday is to be deemed to be the average of his daily earnings, exclusive of overtime, for the days he has worked in the four-week period immediately preceding the week in which the holiday occurs.

If a holiday falls on a day that is a non-working day for the employee, he must be given a holiday with pay at some other time not later than his next annual vacation, or the day on which he is required to be paid vacation pay where he has not earned an annual vacation, or on termination of employment, whichever occurs first.

As in Alberta, an employee who is not required to work on a general holiday must not be required to work on another day of that week that would otherwise be a day of rest, unless he is paid at his regular rate for all hours worked, in addition to all other wages due him.

With regard to pay for work performed on a general holiday, the order distinguishes, as does the Canada Labour (Standards) Code, between employees employed in a "continuous operation" and other employees. A "continuous operation" is defined as an operation or service normally carried on without regard to Sundays or public holidays.

The general rule is that, where an employee is required to work on a holiday, he must be paid not less than time and one-half his regular rate of pay for all hours worked and, in addition, must be given a holiday with pay at some other time not later than his next annual vacation or the day on which he is required to be paid his accrued vacation pay, or on termination of employment, whichever occurs first.

Where an employee employed in a "continuous operation" is required to work on a holiday, he must, in addition to his regular rate of pay for the day, either be paid not less than time and one-half his regular rate for all hours worked or be given a holiday with pay at some other time (as above).

For purposes of these provisions, an employee's "regular rate" is to be deemed to be the average of his hourly earnings, exclusive of overtime, for the hours he has worked in the four-week period immediately preceding the week in which the holiday occurs.

An employee is not entitled to pay for a general holiday that occurs in his first 30 days of employment. An employee is also excluded from holiday benefits if he has not earned wages for at least 15 days during the 30 calendar days immediately preceding the holiday.

Where certain employees of an employer are bound by a collective agreement, and other employees of the same employer are entitled to the general holidays provided for in the order, the employer may, with the approval of the Board of Industrial Relations, substitute a holiday

specified in the agreement for a general holiday under the order, so that all his employees will be entitled to a holiday on the same day.

### *Manitoba*

The Manitoba provisions, which are contained in the Employment Standards Act, prohibit work on specified public holidays unless an overtime rate is paid.

In all employment except farming, subject to the exceptions noted below, workers are entitled to time and one-half their regular rate if required to work on seven "general holidays" — New Year's Day, Good Friday, Victoria Day, Dominion Day, Labour Day, Thanksgiving Day and Christmas Day.

For workers employed in a continuously operating plant, a seasonal industry, a place of amusement, a gasoline service station, a hospital, a hotel or a restaurant, or in domestic service, compensatory time off with pay may be substituted. Domestic servants may be granted two half days off in lieu of a holiday. The compensatory time off must be given within 30 days of the holiday, or at a later date fixed at the request of the employee.

A special Act in Manitoba deals with the observance of Remembrance Day. Except in farming and certain essential services, work may not be performed except by permit from the Minister of Labour. Overtime provisions are not applicable on Remembrance Day. Any employee, other than a watchman, furnace tender or janitor, who is required to work and who is paid at his regular rate of pay must be granted equivalent compensatory time off, without loss of pay, within 30 days.

### *Ontario*

The Ontario Employment Standards Act requires payment of overtime pay for work done on seven public holidays. The holidays are New Year's Day, Good Friday, Victoria Day, Dominion Day, Labour Day, Thanksgiving Day and Christmas Day. Where an employee works on any of these holidays, he must be paid not less than one and one-half times his regular rate. If New Year's Day, Dominion Day or Christmas Day falls on a Sunday, the following day is to be considered a holiday for purposes of overtime pay.

There are two situations in which employees are not entitled to the overtime rate for work on a holiday.

Overtime pay does not have to be paid for work on one of the specified holidays to an employee who has not earned wages for at least



12 of the 30 calendar days preceding the holiday, or to an employee who, in the opinion of the Director of Employment Standards, is guaranteed more favourable benefits in respect of work performed on a holiday under an agreement or arrangement with his employer.

Taxi drivers, ambulance drivers and helpers, and seasonal employees in the hotel, motel, tourist resort, restaurant and tavern industry (who do not work more than 16 weeks in a year and are provided with room and board) are not entitled to overtime pay for work done on any of the specified holidays.

### *Nova Scotia*

In Nova Scotia, the general minimum wage order provides that, if an employee is required to work on a holiday which is not a regular working day for that employee, the employer must either pay him at the rate of time and one-half the minimum rate, or grant him time off equivalent to one and one-half hours for every hour worked on the holiday. The same conditions are laid down for workers in road building and heavy construction and for workers in beauty parlours. "Holiday" is not defined in the orders but as defined in the provincial Interpretation Act covers nine holidays.

Employees in a motel, hotel, restaurant, tourist resort or hospital may be paid the regular straight-time rate for work done on a holiday.

### **Other Legislation Dealing with Holidays**

Provisions in the minimum wage orders of Manitoba deal with the question of pay for public holidays to the extent of prohibiting deductions from the minimum wage for time not worked on a holiday.

In Manitoba, workers are protected against a reduction in the minimum wage for time not worked on a general holiday (as listed above) which falls on a regular working day. Where an employee does not work on a holiday but does work the regularly scheduled hours on all the other working days in the week, it is to be presumed, for the purpose of determining the minimum amount of wages to be paid to the employee for that week, that he worked regular hours on the holiday. An employee does not lose the benefits of this provision through being absent on either the day before or the day after the holiday because of established illness or with the employer's consent.

Under the Municipal Act of British Columbia, shops in all municipalities must be closed on Christmas Day and the day immediately



Following, New Year's Day, Good Friday, Dominion Day, Victoria Day, Labour Day, Remembrance Day, the Queen's birthday, Thanksgiving Day and any day designated as a provincial or municipal holiday. There is also legislation in Newfoundland requiring shops to be closed on 12 specified public holidays and on one additional holiday fixed by the municipality.

Provisions prohibiting work on specified public holidays except with a permit, stipulating that certain holidays must be observed as paid holidays, or requiring the payment of an overtime rate for work done on specified holidays are regular features of the decrees under the Quebec Collective Agreement Decrees Act and of industrial standards schedules in Alberta, Newfoundland, New Brunswick, Nova Scotia, Ontario and Saskatchewan. These provisions, while regulating a considerable portion of industry, particularly in Quebec, apply only to certain trades and areas in the province concerned. They are not dealt with in this publication.

## **FAIR EMPLOYMENT PRACTICES**

Fair employment practices Acts prohibiting discrimination in hiring and conditions of employment and in trade union membership on grounds of race, colour, religion or national origin are in effect in ten jurisdictions.

The Canada Fair Employment Practices Act applies to employment in industries within the legislative jurisdiction of the Parliament of Canada, and covers all employers within that jurisdiction, with two exceptions: (1) employers who employ fewer than five employees, and (2) nonprofit charitable, philanthropic, educational, fraternal, religious or social organizations or organizations operated primarily to foster the welfare of a religious or racial group.

Similar laws are in force in all provinces but Newfoundland. In Nova Scotia, Ontario and Prince Edward Island, fair employment practices provisions are part of a human rights code (the Nova Scotia Human Rights Act, the Ontario Human Rights Code and the Prince Edward Island Human Rights Code). The Alberta Human Rights Act and the New Brunswick Human Rights Act are combined fair employment practices and fair accommodation practices Acts.

The British Columbia Act not only makes it unlawful to discriminate in employment and trade union membership on the basis of race, colour, religion or national origin but also forbids discrimination on grounds of

age (against persons between the ages of 45 and 65). In Ontario, a separate Act, the Age Discrimination Act, forbids discrimination in employment and trade union membership against persons between the ages of 40 and 65 because of their age. Job advertising that expresses a limitation or specification based on age is prohibited.

The Quebec Act respecting discrimination in employment includes in its prohibited employment practices discrimination on the basis of sex.

Each of the provincial Acts covers most employers within the jurisdiction of the province. In British Columbia, Manitoba and Quebec, as under the federal Act, employers with fewer than five employees are exempted. The Acts do not apply to domestic service in private homes or to nonprofit charitable, philanthropic, fraternal, religious or social organizations. Educational institutions also are excluded, with two exceptions. The British Columbia Act applies to schools operating under the Public Schools Act. In Saskatchewan, educational institutions are covered but the right of a school or board of trustees to hire persons of a particular religion where religious instruction forms or can form part of the instruction provided is recognized. The Quebec Act exempts the directors or officers of a corporation, managers, superintendents, foremen and persons who represent the employer in his relations with his employees.

In Alberta, Manitoba, New Brunswick, Ontario, Prince Edward Island, Quebec and Saskatchewan, the prohibitions of the Act apply to the provincial Government in the same way as to private employers.

All the Acts forbid discrimination on grounds of race, colour, religion and national origin but these prohibitions are expressed in somewhat different terms. The Nova Scotia, Prince Edward Island and Saskatchewan Acts include "religious creed" as well as "religion". In place of "religion", the Ontario Act specifies "creed" and the Alberta Act specifies "religious beliefs". "National origin" is defined in the Manitoba Act to include ancestry, and in the federal and New Brunswick Acts to include nationality and ancestry. Discrimination is forbidden on the basis of "ancestry or place of origin" in Alberta; "nationality, ancestry or place of origin" in British Columbia and Ontario; and "ethnic or national origin" in Prince Edward Island and Saskatchewan.

The Quebec Act defines "discrimination" as "any distinction, exclusion or preference made on the basis of race, colour, sex, religion, national extraction or social origin, which has the effect of nullifying

or impairing equality of opportunity or treatment in employment or occupation”.

In prohibiting discrimination in employment on grounds of sex in its fair employment practices law, Quebec has followed a different practice from other Canadian jurisdictions. All other jurisdictions except Newfoundland have enacted equal pay laws forbidding discrimination in rates of pay solely on grounds of sex.

On any of the above grounds (including sex in Quebec and age in British Columbia and Ontario) an employer is forbidden to refuse to employ or to discharge or to discriminate in any other way against any person in regard to employment or any term or condition of employment.

The Acts contain further prohibitions regarding the publication of advertisements, the use of application forms and the making of inquiries, in connection with the hiring of an employee by an employer, which express or imply discrimination on any of the forbidden grounds or which require an applicant to furnish information as to his race, colour, religion or national origin.

Under most of the Acts a refusal to employ, a limitation, specification or preference as to race, colour, religion or national origin which is based upon “a *bona fide* occupational qualification” is permitted. A provision to this effect is contained in the federal, Alberta, British Columbia, Manitoba, New Brunswick and Saskatchewan Acts. Similarly, the Quebec law states that any distinction, exclusion or preference based on the inherent requirements of a particular job is not to be considered discrimination.

The prohibitions noted above are applicable to employment agencies as well as to employers, and the federal, Manitoba, Nova Scotia, Prince Edward Island and Saskatchewan Acts forbid an employer to use an employment agency that practises discrimination against persons seeking employment.

Trade unions (in Quebec, associations of employees) are forbidden to exclude any person from membership, to expel or suspend any of their members, or to discriminate in any other way against a member or other person. The Alberta and Quebec laws also forbid employers' associations to discriminate in admitting, suspending or expelling a member.

In the federal jurisdiction and in Alberta, Manitoba, New Brunswick, Nova Scotia, Prince Edward Island and Saskatchewan, employers

and trade unions may not discharge or otherwise discriminate against any person for making a complaint under the Act.

The provisions for enforcement of the fair employment practices Acts are similar to those laid down in the equal pay laws. Action in all cases is initiated by the filing of a written complaint. In Quebec, a complaint must be made to the Minimum Wage Commission, which is responsible for the administration of the Act. In Saskatchewan, a complaint must be filed with the Attorney General's Department. In the other jurisdictions, complaints are dealt with in the Department of Labour. In New Brunswick and Ontario, a Human Rights Commission administers the Act, and in these two provinces complaints are made to the Commission.

The Acts provide first for an informal investigation and, in most jurisdictions, as a second step, for the appointment of a commission or board of inquiry consisting of one or more persons to deal with a complaint that is not settled at the earlier stage. In British Columbia, the Board of Industrial Relations acts as a commission of inquiry; in Quebec, the Minimum Wage Commission, one of its members or a person appointed by it may investigate the matter further. In Prince Edward Island, the Minister of Labour and Manpower Resources is required to make a full inquiry, to decide the course of action that ought to be taken and to issue an order to this effect. The Quebec Minimum Wage Commission must report on the inquiry to the Minister of Labour but there is no provision for a ministerial order. In the federal jurisdiction and in the other seven provinces, upon receipt of the board's or commission's recommendations, the Minister may issue an order to put them into effect. In New Brunswick, the Human Rights Commission, in addition, is authorized to issue an order that must be complied with.

Two Acts provide a right of appeal. Under the Manitoba Act, a person affected by an order of the Minister has the right to appeal to a judge of the Court of Queen's Bench. In Alberta, where a board of inquiry has found a complaint to be justified, the person against whom the finding was made may lodge an appeal to the district court. Under both Acts, the hearing of the appeal is a trial *de novo*, and the decision of the judge is conclusive. Under the other Acts, the Minister's order is final and must be complied with.

Prosecution under the Acts, for which the consent of the Minister is required, may result in a fine.

Educational programs designed to promote understanding of and compliance with the legislation are authorized by the federal, Alberta,



Manitoba, Nova Scotia, Ontario, Prince Edward Island and Saskatchewan Acts. An extensive public information program designed to eliminate discriminatory practices is carried on in a number of jurisdictions.

In Nova Scotia, a seven-member Human Rights Commission, of which three members are the Deputy Ministers of the Departments of Education, Labour and Public Welfare, respectively, and four are representative persons selected from the community, was set up by Act of the Legislature in 1967. The duties of the Commission are to conduct and encourage research in the general field of human rights, to co-ordinate the activities of the various government departments concerning human rights, to advise the Government on human rights matters and to develop a program of public information and education in the field of human rights.

## **NOTICE OF TERMINATION OF EMPLOYMENT**

Four provinces, Manitoba, Saskatchewan, Nova Scotia and Quebec, have legislation requiring an employer or employee to give notice of termination of employment. The legislation is contained in Part III of the Employment Standards Act in Manitoba, in the Minimum Wage Acts of Saskatchewan and Nova Scotia, and in the Civil Code in Quebec.

In Manitoba, an employer or employee in any work or occupation except farming must give notice of termination of employment and, except in the case of a person paid less frequently than once a month, the period of notice required is one regular pay period. If employees are paid less often than once a month, reasonable notice must be given. Notice of termination is not required if an employee is hired for a fixed period.

The requirements for giving notice do not apply if a general custom or practice prevails in an industry which is contrary to the terms of the Act or where different conditions concerning notice are established by collective agreement. If employment is terminated during an employee's first two weeks in a job, notice is not required unless the employer and employee have agreed in writing that the requirements of the Act will apply.

An employer is permitted to establish a practice whereby employment may be terminated with a shorter period of notice than that provided for in the Act, and the practice is considered to have been established one month after he has notified each of his employees in



writing of the practice and has posted a notice setting out the terms of the practice. Each new employee must be informed of the practice by written notice at the time employment begins.

Complaints of failure to give the required notice may be made in writing to the Minister of Labour within a period of 90 days after employment is terminated. A procedure is laid down in the Act for the settlement of such complaints.

In Saskatchewan, an employer is forbidden to discharge (unless for just cause other than shortage of work) or lay off an employee who has been in his service continuously for three months or more without giving him at least one week's written notice. "Lay-off" is defined as a temporary dispensation with an employee's services for a period of more than six consecutive days.

An employee who has been given written notice is entitled, in respect of the period of notice, to his actual earnings during the week or his normal wages for one week, exclusive of overtime, whichever amount is greater. If notice is not given, the employee is entitled to his normal wages for one week, exclusive of overtime. Where an employee's wages vary from week to week, his normal weekly wage is to be obtained by averaging his earnings, exclusive of overtime, for the four-week period immediately preceding the date on which notice was given or, if no notice was given, the date of discharge or lay-off.

In Nova Scotia, as in Saskatchewan, an employer is required to give an employee with three months' continuous service or more at least one week's written notice of termination of employment or lay-off. The provisions in these two provinces are the same so far as the employer's obligation is concerned. The Nova Scotia Act also requires an employee with three months' service or more to give his employer at least one week's notice of his intention to terminate his employment.

When employment is terminated for any reason or after any period of employment, the employer is required to pay all wages owing within ten days of termination.

The Nova Scotia provisions regarding notice of termination of employment do not apply where another period of notice or another time of payment of wages is provided for in a written contract of employment between an employer and an employee or in a collective agreement between the employer and a trade union of which the employee is a member.

In both Nova Scotia and Saskatchewan, the requirement to give notice applies to all employees except farm labourers and domestic servants.

In Quebec, Section 1668 of the Civil Code requires a domestic servant, journeyman or labourer engaged by the week, month or year to give one week's notice of termination of employment if hired by the week, two weeks' notice if by the month, and a month's notice if by the year. The employer must give similar notice where an employee's services are no longer required. In lieu of notice, the employer may pay the employee the wages he would have earned during the notice period.

Some decrees under the Quebec Collective Agreement Decrees Act require the giving of notice of termination of employment.

## **MATERNITY PROTECTION**

Legislation to ensure protection of the health and job security of women workers before and after childbirth is in force in British Columbia and New Brunswick.

British Columbia has a special law on the subject, the Maternity Protection Act, 1966. The New Brunswick provisions are Sections 11-13 of the Minimum Employment Standards Act, 1964, a law which regulates various conditions of employment.

These laws, which cover all types of employment except those carried on in a private home or on a farm (and in British Columbia horticultural operations), provide for 12 weeks' maternity leave, six weeks before and six weeks after childbirth, the postnatal leave being compulsory. The right to maternity leave is supplemented by a guarantee that a woman will not lose her employment, for reasons arising from her absence on maternity leave, for a period of 16 weeks.

Under both Acts, a woman is entitled to leave her work for a period of up to six weeks preceding her confinement, upon production of a medical certificate showing the presumed date of confinement.

Both Acts provide for six weeks' compulsory leave after childbirth or a longer period in certain circumstances. The New Brunswick Act forbids an employer to employ an employee for six weeks following childbirth or, on production of a medical certificate, during a longer period. In British Columbia, upon receipt of a medical certificate stating the date of delivery, the employer is forbidden to allow the employee

to work for six weeks following that date, or during the period recommended in the certificate, if longer.

Both Acts provide protection against dismissal for a period of up to 16 weeks, forbidding an employer to give notice of dismissal (and in British Columbia to dismiss an employee) for reasons arising out of absence on maternity leave during that period.

Laws in Alberta and Ontario give authority to the Board of Industrial Relations and the Lieutenant Governor in Council, respectively, to deal with the matter of maternity protection by regulations.

Under a provision of the Alberta Labour Act, enacted in 1947, the Board of Industrial Relations has authority to regulate and prohibit the employment of women during and following pregnancy. The Board has not exercised this authority.

The Ontario Industrial Safety Act, 1964, which provides for the making of regulations on a wide variety of matters to ensure the safety and health of persons employed in industrial establishments, authorizes the making of regulations to regulate the employment of pregnant women in factories and shops. No such regulations have been issued.

## **WORKMEN'S COMPENSATION**

All provinces have a workmen's compensation law of the "collective liability" type.

In each province a Workmen's Compensation Act applicable to most industries and occupations provides for the payment of compensation to a workman or his dependants in case of accident or industrial disease arising out of and in the course of employment. The only exceptions are (1) where the workman is disabled for less than a stated number of days, or (2) where the injury is attributable solely to his serious and wilful misconduct and does not result in death or serious disablement.

Compensation is payable by employers collectively. Compensation, medical expenses and other benefits are paid from a provincial Accident Fund built up by annual assessments, in the form of a percentage of payroll, levied on employers covered by the Act. For assessment purposes, industries are classified according to their hazard and each class is liable for the cost of accidents occurring in that class. No contributions from employees are permitted.

The compensation to which a workman is entitled under the Act takes the place of his right of action, and he may not sue his employer in court for damages for an injury sustained in the course of employment.

Benefits under the Acts include periodic payments to the workman during the period of temporary disablement (in all provinces on the basis of 75 per cent of average earnings, subject to the maximum annual earnings provided in the Act); an award for permanent disability (also based on 75 per cent of average earnings and subject to the ceiling on earnings provided in the Act) in the form of a monthly pension for life or, when disablement is slight, paid in a lump sum; all necessary medical aid, including hospitalization; and rehabilitation. In case of death by accident, fixed monthly payments are made to dependants. In addition to a monthly pension, a widow receives a lump sum payment and an allowance for funeral expenses.

There are two federal laws, one providing for compensation for employment injury to employees of the Government of Canada and the other covering merchant seamen not protected by a provincial Act. The federal Government Employees Compensation Act provides that compensation benefits payable to an employee of the Crown are to be the same as those provided for employees employed in private industry under the workmen's compensation law of the province in which the federal government employee is usually employed. The right to compensation and the amount of benefits are determined by the provincial Workmen's Compensation Boards, which, by arrangement, handle the adjudication of claims under the federal Act as the agents of the federal Government.

Under the Merchant Seamen Compensation Act, which is administered by a board composed of three officers of the public service, the employer is individually liable for the payment of compensation, and must carry accident insurance to cover his liability.

Further information about the provincial workmen's compensation laws and the two federal compensation Acts is contained in the publication, *Workmen's Compensation in Canada*, published by the Canada Department of Labour and available from the Queen's Printer, Ottawa.

The benefits payable under the provincial Acts are set out in tabular form on the following pages.

## 1. Monthly Benefits to Dependents in Case of Death of Workman

Funeral	Widow or Invalid Widower	Children with Parent	Orphans	Where only dependants are other than consort and child	Maximum
\$300 <sup>1</sup>	\$100 plus sum of \$200	Under 16, \$35 each <sup>2</sup>	NEWFOUNDLAND Under 16, \$45 each <sup>2</sup>	Sum to be determined by Board, reasonable and proportionate to pecuniary loss <sup>3</sup>	\$312.50 <sup>4</sup>
\$300 <sup>1</sup>	\$75 plus sum of \$200	Under 16, \$25 each <sup>2</sup>	PRINCE EDWARD ISLAND Under 16, \$35 each <sup>2</sup>	As in Newfoundland. Maximum to parent(s), \$40. Maximum in all, \$60 <sup>3</sup>	75% of workman's average earnings, but Board may waive the 75% restriction where circumstances require it and pay \$75 to widow and \$25 for each child under 16 <sup>4</sup>
\$400 <sup>1</sup>	\$90 plus sum of \$250	Under 18, \$30 each <sup>2</sup>	NOVA SCOTIA Under 18, \$35 each <sup>2</sup>	As in Newfoundland. Maximum \$60 each. Maximum in all, \$75 <sup>3</sup>	
\$500 <sup>1</sup>	\$75 plus sum of \$200	Under 21, if attending school, \$25 each <sup>2</sup>	NEW BRUNSWICK Under 21, if attending school, \$50 each <sup>2</sup>	As in Newfoundland <sup>3</sup>	75% of \$5,500 a year (1969); 75% of \$6,000 thereafter <sup>4</sup>
\$600 <sup>1</sup>	\$100 plus sum of \$500	Without age limit, if attending school, \$35 each (18 age limit, if not attending school) <sup>2</sup>	QUEBEC Without age limit, if attending school, \$55 each (18 age limit, if not attending school) <sup>2</sup>	As in Newfoundland <sup>3</sup>	75% of workman's average earnings <sup>1</sup> . Minimum \$135 to widow and one child; \$170 to widow and two children; \$205 to widow and more than two children
\$400 <sup>1</sup>	\$125 plus sum of \$500	Under 16, \$50 each <sup>2</sup>	ONTARIO Under 16, \$60 each <sup>2</sup>	As in Newfoundland. Maximum \$150 <sup>3</sup>	Average monthly earnings of the workman <sup>1</sup> . Minimum \$125 to widow, \$50 to each child or \$60 to orphan child, unless total benefits exceed \$275



MANITOBA		SASKATCHEWAN		ALBERTA		BRITISH COLUMBIA	
\$300 <sup>1</sup>	\$100 plus sum of \$300	Under 16, \$35 each <sup>2</sup>	Under 16, \$45 each <sup>2</sup>	Under 16, \$45 each plus an amount not exceeding \$50 at the discretion of the Board <sup>2</sup>	Under 16, \$65 each plus sum not exceeding \$50 at the discretion of the Board <sup>2</sup>	Under 16, \$48.71 each; 16-21 years, if attending school, \$59.54 each <sup>2,5</sup>	Under 16, \$43.30 each; 16-18 years, if attending school, \$48.71 each; 18-21 years, if attending school, \$54.12 each <sup>2,3</sup>
\$250 <sup>1</sup>	\$115 plus sum of \$300	Under 16, \$50 each <sup>2</sup>	Under 16, \$65 each plus sum not exceeding \$50 at the discretion of the Board <sup>2</sup>	Under 16, \$45 each plus an amount not exceeding \$35 to any child under 21 <sup>2</sup>	Under 16, \$65 each plus sum not exceeding \$50 at the discretion of the Board <sup>2</sup>	Under 16, \$48.71 each; 16-21 years, if attending school, \$59.54 each <sup>2,5</sup>	Under 16, \$43.30 each; 16-18 years, if attending school, \$48.71 each; 18-21 years, if attending school, \$54.12 each <sup>2,3</sup>
\$250 <sup>1</sup>	\$85 plus sum of \$200	Under 16, \$45 each <sup>2</sup>	Under 16, \$65 each plus sum not exceeding \$50 at the discretion of the Board <sup>2</sup>	Under 16, \$45 each plus an amount not exceeding \$35 to any child under 21 <sup>2</sup>	Under 16, \$65 each plus sum not exceeding \$50 at the discretion of the Board <sup>2</sup>	Under 16, \$48.71 each; 16-21 years, if attending school, \$59.54 each <sup>2,5</sup>	Under 16, \$43.30 each; 16-18 years, if attending school, \$48.71 each; 18-21 years, if attending school, \$54.12 each <sup>2,3</sup>
\$265 with additional \$85 for burial or cremation charges <sup>1</sup>	\$124.48 <sup>3</sup> plus sum of \$250	Under 16, \$43.30 each; 16-18 years, if attending school, \$48.71 each; 18-21 years, if attending school, \$54.12 each <sup>2,3</sup>	Under 16, \$65 each plus sum not exceeding \$50 at the discretion of the Board <sup>2</sup>	Under 16, \$45 each plus an amount not exceeding \$35 to any child under 21 <sup>2</sup>	Under 16, \$65 each plus sum not exceeding \$50 at the discretion of the Board <sup>2</sup>	Under 16, \$48.71 each; 16-21 years, if attending school, \$59.54 each <sup>2,5</sup>	Under 16, \$43.30 each; 16-18 years, if attending school, \$48.71 each; 18-21 years, if attending school, \$54.12 each <sup>2,3</sup>

<sup>1</sup>For transporting body for burial, a maximum of \$150 in Quebec, of \$125 in Newfoundland, and of \$100 in Alberta, British Columbia, Nova Scotia and Prince Edward Island may be paid. Necessary expenses may be paid in New Brunswick, Ontario and Saskatchewan. In Manitoba, the Board may pay transportation expenses within the province and part of expenses if the body is moved into or from the province. In Alberta, Manitoba and Saskatchewan, compensation may include payment for burial plot, not exceeding \$50.

<sup>2</sup>Payments to children may be made, at the discretion of the Board, if desirable for a child to continue his education, to the age of 21 in Alberta, Newfoundland, Prince Edward Island and Saskatchewan, until the child is granted a university degree for the first time or completes a course in technical training in Manitoba, and as long as the child is pursuing his studies in Ontario. In Manitoba, a higher allowance (\$50 a month) is payable after the age of 16, thus taking into account increased costs of maintenance and schooling. In Alberta, Newfoundland and Prince Edward Island, payments to invalid children are continued so long as Board considers the workman would have contributed to the child's support. In all other provinces payments are continued until recovery.

<sup>3</sup>Compensation in these cases is continued only so long as the Board considers workman would have contributed to support. In Nova Scotia, compensation is to be paid to the end of the school year in which a child attains the age of 18 years.

<sup>4</sup>For maximum annual earnings on which compensation may be based, see Table 2, Column 5.

<sup>5</sup>In accordance with a formula introduced in 1965, pensions and allowances for widows and children are increased 2% for each rise of 2% in the Consumer Price Index.

## 2. Benefits in Case of Disability

PERMANENT		TEMPORARY		Maximum Earnings Reckoned
Total	Partial	Total	Partial	
NEWFOUNDLAND				
75% of earnings. Minimum \$125 a month or earnings, if less	Proportion of 75% of earnings based on impaired earning capacity estimated from nature and degree of injury <sup>1,2,3</sup>	75% of earnings for duration of disability. Minimum \$25 a week or earnings, if less	Proportion of 75% of earnings based on impaired earning capacity estimated from nature and degree of injury, or, if more equitable, 75% of difference in earnings before and after accident for duration of disability <sup>2,3</sup>	\$5,000 a year
PRINCE EDWARD ISLAND				
75% of earnings. Minimum \$25 a week or earnings, if less <sup>1</sup>	Proportion of 75% of earnings based on impaired earning capacity estimated from nature and degree of injury <sup>1,2,3</sup>	75% of earnings for duration of disability. Minimum \$25 a week or earnings, if less <sup>1</sup>	75% of difference in earnings before and after accident or compensation based on impaired earning capacity estimated from the nature of the injury for duration of disability <sup>2,3</sup>	\$5,000 a year
NOVA SCOTIA				
75% of earnings. Minimum \$125 a month or, if the workman has more than one child under 16, the amount which a widow with the same number of children would receive	Proportion of 75% of earnings based on impaired earning capacity estimated from nature and degree of injury. If disability 15% or more, average earnings must be taken as not less than \$160 a month <sup>1,2,3</sup>	75% of earnings for duration of disability. Minimum \$35 a week or earnings, if less	75% of difference in earnings before and after accident for duration of disability <sup>2,3</sup>	\$6,000 a year
NEW BRUNSWICK				
Average earnings but not in excess of 75% of \$5,500 (in 1969; \$6,000 thereafter)	Amount determined by Board, proportionate to diminution of earning capacity <sup>2</sup>	75% of earnings for duration of disability. Minimum \$30 a week or earnings, if less	If earning capacity diminished by more than 10%, 75% of diminution of earning capacity for duration of disability	\$5,500 a year in 1969; \$6,000 thereafter
QUEBEC				
75% of earnings. Minimum \$35 a week or earnings, if less	Proportion of 75% of earnings in accordance with the degree of disability <sup>2,3</sup>	75% of earnings for duration of disability. Minimum \$35 a week or earnings, if less	Proportion of 75% of earnings in accordance with the degree of disability for duration of disability <sup>2,3</sup>	\$6,000 a year

ONTARIO			
75% of earnings. Minimum \$150 a month or earnings, if less, but in no case less than \$100 a month	Proportion of 75% of earnings based on impaired earning capacity estimated from nature and degree of injury <sup>1,2,3</sup>	75% of earnings for duration of disability. Minimum \$30 a week or earnings, if less	75% of difference in earnings before and after accident or compensation based on impaired earning capacity estimated from the nature of the injury for duration of disability <sup>2,3</sup>
			\$7,000 a year
MANITOBA			
75% of earnings. Minimum \$150 a month or earnings, if less	Proportion of 75% of earnings based on impaired earning capacity estimated from nature and degree of injury <sup>1,2,3</sup>	75% of earnings for duration of disability. Minimum \$25 a week or earnings, if less	75% of difference in earnings before and after accident or compensation based on impaired earning capacity estimated from the nature of the injury for duration of disability <sup>2</sup>
			\$6,600 a year
SASKATCHEWAN			
75% of earnings. Minimum \$36 a week	Proportion of 75% of earnings based on impaired earning capacity estimated from nature and degree of injury <sup>1,2,3</sup>	75% of earnings for duration of disability. Minimum \$36 a week or earnings, if less	Proportion of 75% of earnings based on impaired earning capacity estimated from nature and degree of injury for duration of disability <sup>3</sup>
			\$126.92 4/13 a week (\$6,600 a year)
ALBERTA			
75% of earnings. Minimum \$35 a week or earnings, if less	Proportion of 75% of earnings based on impaired earning capacity estimated from nature and degree of injury <sup>2</sup>	75% of earnings for duration of disability. Minimum \$35 a week or earnings, if less	Proportion of 75% of earnings based on impaired earning capacity estimated from nature and degree of injury for duration of disability
			\$5,600 a year
BRITISH COLUMBIA			
75% of earnings. Minimum \$150 a month <sup>1</sup>	Proportion of 75% of earnings based on impaired earning capacity estimated from nature and degree of injury <sup>1,2,3</sup>	75% of earnings for duration of disability. Minimum \$32.47 a week or earnings, if less <sup>2</sup>	Proportion of 75% of earnings based on impaired earning capacity estimated from nature and degree of injury, or, if more equitable, 75% of difference in earnings before and after accident for duration of disability <sup>2,3</sup>
			\$6,600 a year <sup>1</sup>

<sup>1</sup>The Act also permits the use of the wage-loss method in calculating compensation. Under this method, compensation is 75% of the difference in the average earnings of the workman before and after the accident.

<sup>2</sup>If earning capacity is diminished 10% or less (5% or less in Alberta), a lump sum may be given.

<sup>3</sup>The minimum payable in case of partial disability is the same proportion of the minimum for total disability (see preceding column) as impairment is of full earning capacity.

<sup>1</sup>Board may fix compensation on basis of \$15 a week, even though earnings are less than that amount.

<sup>2</sup>As increased from January 1, 1968, in accordance with a formula introduced in 1965, under which pensions and minimum compensation are increased 2% for each rise of 2% in the Consumer Price Index.

<sup>3</sup>Provision was made for periodical increases of \$1,000 in the ceiling, if earnings increase in line with a formula contained in the Act.

## **LABOUR STANDARDS IN THE YUKON AND NORTHWEST TERRITORIES**

Labour standards legislation has been enacted by the Territorial Councils of the Yukon and Northwest Territories in most of the fields of legislation covered by this publication. New Labour Standards Ordinances, modelled on the Canada Labour (Standards) Code, with modifications to meet the particular requirements of the Territories, went into force on July 1, 1968. The Ordinances establish minimum standards of hours of work, wages, annual vacations and public holidays for employees in the Territories. Previous to the enactment of the Northwest Territories Ordinance, the only labour standards applicable were those established by mines legislation. Standards in the Yukon Ordinance replaced those previously laid down in the Yukon Labour (Minimum Wages) Ordinance, the Labour Provisions Ordinance and the Annual Vacations Ordinance, now repealed.

The Commissioner of each Territory is to administer the Ordinance, with the advice and assistance of an Advisory Board, consisting of a chairman, an employers' representative and an employees' representative. Provision was made for the appointment of a Labour Standards Officer to administer the Ordinance, under the Commissioner's direction, and for the appointment of inspectors.

The Ordinances apply to employers and employees in any work, undertaking or business of a local or private nature in the Territory. The Northwest Territories Ordinance excludes domestic servants in private homes, trappers, persons engaged in commercial fisheries, and managers or superintendents or persons who exercise management functions. Members or students of designated professions may be excluded by regulations. The Yukon Ordinance applies generally but certain classes of employees are excluded from Part I governing hours of work.

### **Statutory School-Leaving Age**

In both Territories, a School Ordinance provides for compulsory school attendance to the age of 15. In the Northwest Territories, if a child reaches his 15th birthday after December 31, he must attend to the end of the school year. As in the provinces, a child may be exempted from school attendance if he is under instruction in some other satisfactory manner, if he is prevented from attending school for any unavoidable cause, or if he has reached a standard of education equal to

or higher than that to be attained in the school. In the Northwest Territories, a child may be allowed to leave school before the statutory school-leaving age if he has completed Grade VIII or its equivalent. An exception is also permitted in the Northwest Territories in the case of a child who is unable to attend because of distance from school or lack of school accommodation.

### **Minimum Age for Employment**

Under a Mining Safety Ordinance in each Territory, the minimum age for employment below ground is 18 years. The Northwest Territories Ordinance in addition sets a minimum age of 16 years for employment above ground in mines.

Under the Labour Standards Ordinances of both Territories, regulations may be made laying down conditions under which young persons under the age of 17 years may be employed.

### **Minimum Wages**

Both Ordinances require the payment of a minimum rate of wages of \$1.25 an hour. This rate applies to employees who are 17 years of age and over.

Employees paid on other than a time basis, such as pieceworkers and persons paid a mileage rate, are required to receive the equivalent of the minimum wage.

### **Hours of Work**

The Mining Safety Ordinances of both Territories provide for a maximum eight-hour day for work below ground in mines.

Under the Labour Standards Ordinance of each Territory, standard hours of work are 8 in a day and 48 in a week for most employees. Except in special circumstances, maximum hours are 10 in a day and 60 in a week.

Different standards are laid down for certain classes of employees. In the Northwest Territories, standard hours of 208 in a month have been established for persons employed in exploration and development of metal mining and petroleum (including geophysical, geological, seismological and diamond drilling work), the transport of goods to and from isolated areas, tourist camps and commercial fishing. For these employees, maximum hours are 260 in a month.

In the Yukon Territory, standard hours of employees in shops are 8 in a day and 44 in a week. Maximum hours of work permitted are



260 in a month. "Shop" is defined as an establishment where wholesale or retail trade is carried on or where services are dispensed to the public for profit. Overtime beyond the limits of 8 and 48 hours is prohibited for employees engaged in mining operations underground in a shaft or tunnel.

In all cases where an employee is required or permitted to work in excess of standard hours, he must be paid one and one-half times his regular rate.

Averaging of hours over a period of two or more weeks is permitted under both Ordinances. The manner and circumstances in which averaging may be allowed are to be prescribed by regulations.

Exceptions from maximum hours (or, in the Yukon, from standard hours) are permitted in certain circumstances.

Where work in an industrial establishment is seasonal or intermittent in nature, the Commissioner, after having considered the nature of the establishment, the conditions of employment and the welfare of the employees, may issue an order permitting excess hours to be worked.

In the Northwest Territories, hours in excess of maximum hours (10 and 60 or 260, as the case may be) may be worked with a permit issued by the Labour Standards Officer, when the applicant has satisfied him that there are exceptional circumstances to justify the working of additional hours.

Maximum hours (in the Yukon, standard hours) may also be exceeded in an emergency due to an accident, breakdown in machinery or other unpreventable circumstances. Details of such emergency work must be reported within 30 days after the end of the month in which the additional work was done.

The hours of work provisions of the Yukon Ordinance do not apply to members of the employer's family, individuals who search for minerals, travelling salesmen, domestic servants, farm labourers, and supervisory and managerial employees. Members and students of professions and other persons or classes of persons may be excluded by regulations.

Persons employed as hunting or fishing guides are exempted from the hours of work provisions of the Northwest Territories Ordinance.

### **Weekly Rest-Day**

Both Ordinances provide that, unless an exception is made by regulations, employees must be given at least one full day of rest in

each week, and that the normal day of rest must be Sunday wherever practicable.

### **Annual Vacations with Pay**

Under both Ordinances, employers are required to give their employees an annual vacation with pay of at least two weeks in respect of every completed year of employment.

A "year of employment" is defined as continuous employment of an employee by one employer for a period of 12 consecutive months beginning with the date employment began or any subsequent anniversary date. An employee is entitled to the vacation established by the Ordinance if his year of employment began before and ended after the Ordinance came into effect.

Vacation pay is 4 per cent of the employee's wages for the year of employment in respect of which he is entitled to a vacation. The vacation must be granted not later than 10 months after the date on which the employee becomes entitled to it. Vacation pay must be given at least one day before the vacation is to begin or at an earlier date, if the regulations so prescribe.

The Yukon Ordinance provides that, if a general holiday occurs during an employee's vacation, the vacation is to be extended by one day in lieu of the holiday, and that the employee must be paid the wages to which he is entitled for the holiday, in addition to his vacation pay.

When employment is terminated during a year, the employee is entitled to any vacation pay owing to him in respect of a previous completed year of employment and to 4 per cent of his wages for the period he has worked during the year. An employee is not entitled to vacation pay, however, unless he has been continuously employed for 30 days or more.

When a business changes hands, an employee is considered to have been in continuous employment before and after the transfer.

The Yukon Ordinance excludes from its annual vacation provisions employees who are members of the employer's family.

### **Public Holidays**

In both Territories, employees are entitled to a holiday with pay in respect of each of the general holidays listed in the Ordinance. Both Ordinances provide for the same eight general holidays as are

named in the federal Code but in the Yukon Ordinance a ninth holiday, Discovery Day, is provided for. Another holiday may be substituted for any of the listed holidays.

The Yukon Ordinance states that, where a general holiday falls on a Sunday, the Monday following is to be a holiday with pay.

The Labour Standards Officer may allow another holiday with pay to be substituted for a general holiday if another holiday is specified in a collective agreement or, where there is no collective agreement, if an employer applies for a substitution and the majority of the employees agree.

In the Northwest Territories, an employee is entitled to a holiday with pay only when a general holiday falls on a regular working day.

In the Northwest Territories, if an employee is required to work on a holiday, he must be paid his regular pay for the day and must, in addition, be paid at his regular rate of wages for the hours worked or he must be given a holiday with pay at a time convenient to him and his employer, not later than his next annual vacation or on termination of employment, whichever occurs first.

The Yukon Ordinance follows the Canada Labour (Standards) Code in requiring, for work done on a holiday, payment of regular pay plus wages at the rate of time and one-half for the hours worked. This provision does not apply to custodial work or essential services as prescribed by regulations. A person employed in any such employment must be granted a holiday with pay at another time in lieu of a holiday on which he was required to work.

An employee who is not required to work on a general holiday must not be required to work on another day of that week that would otherwise be a non-working day, unless he is paid at least double his regular rate of wages in the Northwest Territories, or at least one and one-half times his regular rate of wages in the Yukon, for the time worked by him on that day.

The circumstances under which payment of holiday pay is not required differ in the Ordinances.

In the Yukon, an employee is not entitled to pay in respect of a holiday on which he does not work (a) if the holiday occurs in his first 30 days of employment with an employer, or (b) if he is not entitled to wages for at least 15 days in the 30 calendar days immediately preceding the holiday, or (c) if he has not worked an average of 24 hours a

week during the four-week period immediately preceding the week in which the holiday falls (excluding any period of annual vacation), or (d) if he did not report for work on the holiday after having been called to work, or (e) if, without his employer's consent, he did not report for work on either the day preceding or the day following the holiday.

Under the Northwest Territories Ordinance, an employee is not entitled to be paid for a holiday if he has not worked for his employer for at least 30 days in the preceding 12 months. Other exceptions are the same as in (d) and (e) above.

### **Fair Employment Practices and Equal Pay**

Both Territorial Councils have enacted Fair Practices Ordinances (the Yukon in 1963 and the Northwest Territories in 1966) prohibiting discrimination in regard to employment and membership in trade unions on grounds of race, colour, religion or national origin.

While the intent of the two Ordinances is the same, they employ somewhat different wording in regard to the forbidden bases of discrimination. The Yukon Ordinance prohibits discrimination on grounds of "race, religion, religious creed, colour, ancestry, or ethnic or national origin". In the Northwest Territories Ordinance the wording is "race, creed, colour, nationality, ancestry or place of origin".

Both Ordinances cover a wider field than employment practices. Both prohibit discrimination on the grounds listed above in regard to public accommodation and multiple housing. The Northwest Territories Ordinance also forbids an employer to discriminate between his male and female employees by paying a female employee at a lesser rate of pay than the rate paid to a male employee for the same work done in the same establishment.

The Ordinances are patterned after the provincial fair employment practices laws. They bar an employer from refusing to hire, from discharging or from adversely discriminating in any term or condition of employment on any of the above-mentioned grounds. They prohibit the use of job application forms that require an applicant to give particulars as to his race, colour, religion or national origin.

Trade unions are forbidden to discriminate on any of the same grounds in admitting, suspending or expelling a member.

The prohibitions do not apply to domestic employment, to non-profit charitable, philanthropic, educational, fraternal, religious or social



organizations or those operated primarily to foster the welfare of a religious or racial group, or to employers who employ fewer than five persons.

The Ordinances do not deprive an employer of the right to employ persons of any particular race, colour, religion or national origin in preference to other persons, where such preference is based upon a *bona fide* occupational qualification. The Northwest Territories Ordinance adds the words "necessary to the normal operation of the employer's business or enterprise". Schools in which religious instruction forms or can form part of the curriculum are permitted to hire persons of a particular religion or religious creed.

Procedures for the enforcement of the Fair Practices Ordinances are similar to those in the provincial fair employment practices laws providing for investigation of complaints of discrimination, the adjustment of cases through discussion and mediation, and for prosecution and penalties as a last resort.

A complaint alleging discrimination is to be made to the officer appointed by the Commissioner of the Territory to deal with such matters. The Commissioner may then appoint an officer to inquire into the complaint. If a settlement is not reached through conciliation, the officer must recommend to the Commissioner the action that in his opinion should be taken with respect to the complaint, and the Commissioner may issue whatever order he thinks necessary to put the recommendations into effect. A person affected by such an order may within ten days appeal to a judge of the Territorial Court, whose decision is final.

### **Workmen's Compensation**

Each Territory has a Workmen's Compensation Ordinance that makes the employer individually liable to pay compensation and requires him to carry accident insurance to cover his liability or make other arrangements acceptable to the Commissioner. Under both Ordinances, the Alberta Workmen's Compensation Board acts as Referee to determine disputed claims.

The scale of benefits payable under each Ordinance has been increased at intervals but increases in benefits to widows and children and other dependants are made applicable only with respect to accidents occurring after the effective date of the amendments. Hence, lower



scales of benefits are in effect for dependants in receipt of pensions as a result of earlier accidents.

Both Ordinances were revised in 1966, following the recommendations of a board of inquiry, to provide for a similar scale of benefits.

A widow is entitled to a maximum of \$300 for burial expenses, a lump sum payment of \$300 and a monthly pension of \$100 payable until remarriage or death. The \$100-a-month widow's pension is payable under the Northwest Territories Ordinance with respect to accidents occurring on or after January 1, 1967. A widow continues to receive a monthly payment of \$50 where the accident occurred on or before December 31, 1955; \$75 where the accident occurred in the period between January 1, 1956, and December 31, 1961; and \$90 where the accident occurred in the period between January 1, 1962, and December 31, 1966. In the Yukon Territory, the monthly pension of \$100 has been payable in respect of all accidents occurring since July 9, 1961. Pensions of \$50 and \$75 a month, depending on the date of the accident, continue to be paid in respect of earlier accidents.

In respect of accidents occurring on or after January 1, 1967, in the Northwest Territories and after April 1, 1967, in the Yukon, a monthly payment of \$45 is payable to a dependent child. This allowance is payable in the Yukon to all children under the age of 18; in the Northwest Territories, it is payable to the age of 16 and may be continued, in the discretion of the Referee, to the age of 18 so long as the child is attending school and making satisfactory progress. Under both Ordinances, an additional payment, not exceeding \$10 a month, may be made, at the discretion of the Referee, to an orphan child. Smaller allowances are payable in respect of earlier accidents.

Where the only dependants are persons other than widow or children, compensation is to be a sum determined by the Referee in proportion to the pecuniary loss sustained, not exceeding \$75 a month to one parent or \$100 a month to two parents. These limits have been applicable with respect to accidents occurring after January 1, 1956. Limits of \$50 and \$85, respectively, apply to earlier accidents.

Under both Ordinances, time-loss compensation at the rate of 75 per cent of the workman's average weekly earnings is paid for the duration of temporary disability. A workman who is permanently and totally disabled is entitled to be paid a pension for as long as he lives

equal to 75 per cent of his average weekly earnings. Compensation payments for total disability, either permanent or temporary, may not be less than \$35 a week, or the workman's average earnings, if less. For a workman with a permanent partial disability, compensation is a proportion of 75 per cent of his average earnings, depending on impairment of earning capacity as a result of the injury.

In computing average earnings, the maximum amount of annual earnings which may be taken into account is \$5,600 under both Ordinances (in respect of accidents occurring on or after January 1, 1967, in the Northwest Territories and after April 1, 1967, in the Yukon). Lower ceilings are applicable with respect to earlier accidents.

In addition to compensation payments, the injured workman is entitled to medical aid, the cost of which is borne by the employer. The Referee may require the employer or insurer to pay the expense of occupational retraining of a permanently disabled workman, up to an amount not exceeding \$5,000.











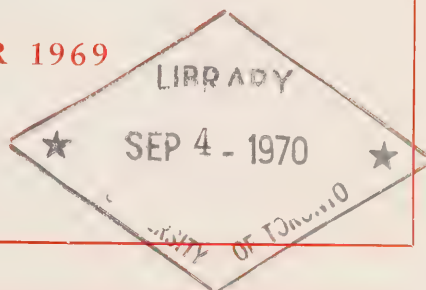






# LABOUR STANDARDS IN CANADA

DECEMBER 1969



CANADA DEPARTMENT OF LABOUR

Legislation Branch

Hon. Bryce Mackasey / Minister

J. D. Love / Deputy Minister







# LABOUR STANDARDS IN CANADA

DECEMBER 1969



LEGISLATION BRANCH  
CANADA DEPARTMENT OF LABOUR

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Price: 75 cents      Catalogue No. L2-7/1969

Price subject to change without notice

Queen's Printer for Canada  
Ottawa, Canada  
1970

## FOREWORD

This publication, issued annually, sets out the standards that are in effect under federal and provincial labour laws with respect to child labour, minimum wages, equal pay for equal work, hours of work, weekly rest-day, annual vacations with pay, public holidays, fair employment practices, notice of termination of employment, maternity protection and workmen's compensation. The standards set by labour Ordinances of the Yukon and Northwest Territories are included.

"Standards" as used in the title mean the minimum standards required by law. These standards are set out in tables, where appropriate, and in other instances in narrative form. Changes in labour standards in 1969 are summarized, beginning at page 9.

The publication was prepared by Miss Evelyn Woolner, Chief of the Legislative Research Division of the Legislation Branch.

HARRY J. WAISGLASS,  
*Director-General,*  
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Canada Department of Labour.

December 31, 1969.



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## DIVISION OF LEGISLATIVE POWERS

Since both the Parliament of Canada and the provincial legislatures have power to enact labour laws and each is sovereign in its own jurisdiction, it is important for the user of this publication to be clear about the field of authority of each.

In the division of legislative powers between Parliament and the legislatures of the provinces in matters of labour legislation, the provincial legislatures have the major jurisdiction and Parliament has authority only in a limited field.

The right to make laws concerning labour in Canada stems from Sections 91 and 92 of the British North America Act and from court interpretations of these sections.

Provincial authority flows principally from the fact that Section 92 of the B.N.A. Act gives the provinces exclusive power to make laws regarding "property and civil rights in the province". The right to contract is a civil right, and labour laws, which impose conditions on the rights of the employer and employee to enter into a contract of employment (e.g., a minimum age for employment, a minimum rate of wages, limits on working hours), are laws in relation to civil rights. The provinces also have exclusive legislative jurisdiction over "local works and undertakings".

The power of Parliament to legislate in labour matters is derived from and is an incidental part of its exclusive legislative authority over certain classes of subjects assigned to it in the B.N.A. Act. These are enumerated in Section 91 or are expressly excepted from provincial jurisdiction by Section 92(10) and brought within the exclusive jurisdiction of Parliament by Section 91(29).

The specific industries and undertakings which Parliament has exclusive power to regulate and control are those of a national, interprovincial or international nature. Parliament has authority to regulate, e.g., the operation of railways, telegraphs, canals and other works and undertakings *connecting the provinces or extending beyond the limits of a province*. It has the further authority to regulate undertakings or businesses which are wholly within a province but which have been declared by Parliament to be for the "general advantage" of Canada or for the advantage of two or more of the provinces. Grain elevators, feed mills, uranium mines and defined operations of specific companies are some of the undertakings that have been declared to be for the general advantage of Canada.

Parliament may legislate for certain classes of employers and employees, therefore, because of the nature of the operations in which they are engaged. By virtue of its exclusive power to regulate the management and operation of particular works, undertakings or businesses, it has authority to enact legislation setting minimum standards and conditions of employment for workers engaged in such works, undertakings or businesses.

The industries or undertakings to which the Canada Labour (Standards) Code, and, with some variations, other federal labour legislation, applies are as follows:

1. Operations that connect a province with another province or another country, such as railways, bus operations, trucking, pipelines, ferries, tunnels, bridges, canals and telegraph, telephone and cable systems
2. All extra-provincial shipping and services connected with such shipping, e.g., longshoring and stevedoring
3. Air transport, aircraft and aerodromes
4. Radio and television broadcasting
5. Banks
6. Primary fishing, where fishermen work for wages
7. Flour, feed, and seed cleaning mills and feed warehouses
8. Grain elevators
9. Uranium mining and processing
10. Defined operations of specific companies that have been declared to be for the "general advantage" of Canada or for the advantage of two or more provinces
11. Most federal Crown corporations, e.g., the Canadian Broadcasting Corporation and the St. Lawrence Seaway Authority.

To sum up, Parliament's jurisdiction is limited to employment in or connected with the industries set out above. *The remaining field of employment*, including manufacturing, mining, construction, logging, wholesale and retail trade, the service industries and local business generally, *is subject to labour legislation enacted by the provincial legislature.*

Parliament has legislative authority with respect to those parts of Canada that are not included within a province. In two federal laws, the Yukon Act and the Northwest Territories Act, it has made provision for

local government of each territory by a Commissioner and a Territorial Council. The Commissioner and Council have legislative powers, subject to any other Act of the Parliament of Canada, with respect to a number of matters, including property and civil rights in the Territory, and generally in relation to all matters of a merely local or private nature in the Territory. The jurisdiction of the Territorial Councils in labour matters is thus the same as that of the provincial legislatures, with the fundamental difference that the jurisdiction has been conferred by an Act of Parliament. Federal labour standards laws do not apply to undertakings of a local or private nature in the Territories.

## CHANGES IN LABOUR STANDARDS IN 1969

### General Summary

Under the Canada Labour (Standards) Code, several Orders in Council were issued which suspended the operation of Part I of the Code (Hours of Work) and laid down a schedule of working hours, in excess of those provided for in the Code, to be observed for a specified period. Two Orders were applicable to non-office employees of the Coal Division of the Cape Breton Development Corporation. A third applied to that part of the shipping industry within federal jurisdiction carried on on the St. Lawrence River and the East Coast (excluding Newfoundland).

Saskatchewan consolidated the basic principles and administrative provisions of eight existing Acts, without substantial amendment, to form a comprehensive labour code, under the title of the Labour Standards Act, 1969. Now contained in one statute are provisions governing paid annual vacations, hours of work, weekly rest-day, minimum wages, public holidays, notice of termination of employment, wage payment and wage collection, equal pay and a weekly half-holiday in shops. One of the principal changes made is that employees are given greater protection in the collection of wages due them.

Minimum wage rates were increased in seven of the provinces. The highest minimum rates set were those provided for in Alberta. In that province the general minimum rate will be increased to \$1.40 an hour on April 1, 1970, and to \$1.55 on October 1, 1970.

Newfoundland adopted a Human Rights Code containing equal pay provisions which require a female employee to be paid at the same rate of pay as a male employee for the same work done in the same establishment. In British Columbia, the Equal Pay Act was incorporated in a new Human Rights Act, and in Nova Scotia, equal pay provisions were removed from human rights legislation and enacted as a separate Act. In both cases, the legislation was amended to make important changes. As already indicated, Saskatchewan equal pay clauses are now a part of the Labour Standards Act.

In Newfoundland, legislation was enacted requiring employers to grant their employees a weekly rest-day, wherever possible on Sunday. Under stated conditions, the Minister of Labour may by permit exempt an employer from compliance with the Act.

Annual vacations legislation was also passed in Newfoundland. The Annual Vacations with Pay Act requires employers to grant their employees a vacation with pay of at least two weeks after every completed year of employment, provided the employee has worked at least 90 per cent of the regular working hours in any continuous 12-month period. Vacation pay is 4 per cent of total wages for the year. As in other jurisdictions, workers are entitled to vacation pay on termination of employment during a working year. In such case the employee must be given 4 per cent of his total wages for the hours worked.

The Manitoba annual vacations legislation was amended to authorize payment of vacation pay to workers who previously, because of intermittent service during a year, did not qualify for a vacation.

Newfoundland enacted its first anti-discrimination legislation, a human rights code dealing with employment, equal pay, public accommodation, rental practices, and discriminatory advertising. The Nova Scotia Human Rights Act was revised and strengthened, and the Nova Scotia Human Rights Commission, rather than the Minister of Labour, was given responsibility for its administration. A Human Rights Act was passed in British Columbia, a consolidation and extension of three previously existing statutes. The Act established a permanent Human Rights Commission to assist in the enforcement of the Act. An amendment to the Ontario Human Rights Code narrowed the exemption previously allowed for nonprofit organizations.

Newfoundland became the fifth province to adopt legislation requiring notice to be given of termination of employment.



Eight of the Workmen's Compensation Acts were amended, increasing death and disability benefits. In Quebec, compensation benefits were tied to the cost of living.

Further details of the new or revised standards are set out below.

## Minimum Wages

During the year amendments were made to several Minimum Wage Acts, and the general minimum rates in effect in six provinces were increased. The NEW BRUNSWICK Act was amended to cover part-time employees (those employed four hours or less a day or 24 hours or less a week). PRINCE EDWARD ISLAND amended the definition of "wages" within the meaning of its Minimum Wage Acts to exclude tips. The NEWFOUNDLAND Legislature substantially increased the fines that may be imposed for a contravention of the Act.

In consolidating its Minimum Wage Act with other labour standards laws to form the Labour Standards Act, SASKATCHEWAN deleted the section setting out the criteria to be followed by the Minimum Wage Board in establishing the minimum wage. Only the Manitoba and Quebec Acts now contain any such criteria.

## NOVA SCOTIA

In NOVA SCOTIA, the general minimum rates were increased from August 1, 1969, by 10 cents an hour. The rates per hour established by the general order are as follows:

### General rates (18 years and over)

	Men	Women
Zone I.....	\$1.25	\$1
Zone II.....	\$1.15	90 cents

### Rates for underage workers (14-18 years)

	Boys	Girls
Zone I.....	\$1.05	80 cents
Zone II.....	90 cents	65 cents

Automobile salesmen were excluded from the coverage of the general order.

The minimum rates for beauty parlour employees, which are set for the same geographic zones as in the general order, were increased by 15 cents an hour. For experienced workers, the rates are now \$1.10

an hour in Zone I and 95 cents in Zone II. Inexperienced beauty parlour employees have no set rate for the first three months of employment but must receive at least 60 cents an hour for the second three months in both zones, and, for the third three months, 85 cents an hour in Zone I and 75 cents an hour in Zone II.

An increase of 5 cents an hour was provided for workers in logging and forest operations. These workers must now receive not less than \$1.15 an hour. No change was made in the \$1.25 rate set in the order for road building and heavy construction. Both these orders are province-wide in scope.

## PRINCE EDWARD ISLAND

PRINCE EDWARD ISLAND increased minimum rates for men, effective September 1, 1969. The revised order raised the general minimum rate for male workers from \$1.10 to \$1.25 an hour and set special rates for potato warehousemen and food processing employees. The rate set for potato warehousemen was \$1 an hour, an increase of 15 cents over the former rate. The rates for employees in the food processing industry were increased in two stages—to \$1 an hour from September 1 and \$1.10 from January 1, 1970. Their former rate was 90 cents.

As in the case of women workers, inexperienced employees may be paid 5 cents less than the minimum rate for the first 30 days of employment. Previously, except for seasonal or casual workers, the minimum rate became effective 60 days from the date of hiring. Students who work a minimum of 28 hours a week or who work full time during vacations from school must be paid at least \$1 an hour.

The order applies to all male workers except those under 18, those whose wages are fixed under a labour-management contract, registered apprentices, farm labourers and domestic servants.

The order for women workers introduced in 1968 was amended during the year. As a result, workers employed in the restaurant and tourist accommodation industries during the period June 15 to September 15 are not entitled to overtime pay (one and one-half times the minimum rate after 48 hours or normal hours, if less). Employees hired on a seasonal basis in the food processing industry are to be paid at the overtime rate only after 60 hours of work in a week, instead of 54. Employers engaged in seasonal food harvesting and processing for a period not exceeding 5 weeks in the year are exempted from any requirement to pay overtime rates.

## SASKATCHEWAN

The new minimum rates which went into effect on October 1, 1969, in SASKATCHEWAN for workers 17 years of age and over are \$1.25 an hour in the ten cities and a five-mile radius and \$1.15 in the rest of the province. The rates for workers under 17 are \$1.10 and \$1.05. These represent an increase of 20 cents an hour for workers of 17 and over, and 15 cents an hour for younger workers. The order governing janitors or caretakers in residential blocks was not reissued. These employees now come under the general order.

## MANITOBA

In MANITOBA, an increase of 10 cents an hour, based on an interim report of the Minimum Wage Board, went into force on December 1, 1969, bringing the minimum rate for workers 18 and over to \$1.35 an hour and for workers under 18 to \$1.10 an hour.

Inexperienced workers may be paid 15 cents less than the minimum wage during their first three months of employment, but not less than \$1.10 an hour, and 5 cents less than the minimum wage during their second three months of employment. After six months of employment the regular minimum rate applies.

At the end of the year the Board had not yet submitted its final report.

## NEW BRUNSWICK

Effective from January 1, 1970, the general minimum rate in NEW BRUNSWICK was raised from \$1 to \$1.15 an hour. A handicapped person may be paid 20 cents less than the minimum rate, and an apprentice or casual employee may be paid 10 cents less than the minimum rate. An apprentice is defined as an employee with less than four months' experience in the trade or industry in which he is employed. A casual employee is one who is employed by his employer for not more than four months in a year. The rates established for handicapped persons and apprentices may not be paid to more than 20 per cent of the total number of employees of an employer.

## ALBERTA

The ALBERTA Board of Industrial Relations made provision for a two-stage increase in the province's general minimum rate, which since

January 1, 1968, has been \$1.25 an hour. As of April 1, 1970, the rate will be raised to \$1.40; on October 1, 1970, it will become \$1.55 an hour.

## QUEBEC

QUEBEC continued its revision of minimum wage orders, replacing all orders except those that had been revised from November 1, 1968.

Orders governing forest operations, municipal corporations and school boards, and the shoe industry were revised, effective June 1, 1969. Two separate orders, one governing the woodworking industry and the other governing sawmills, replaced a single order covering both types of establishments, as of September 1, 1969.

Under the revised order governing forest operations, woodcutters paid at piecework rates must be paid a minimum of \$16 a day, instead of \$14; workers hired on a contract basis, cooks, kitchen helpers, watchmen and fire rangers are entitled to a minimum of \$13.50 a day, instead of their previous rate of \$12.50 or \$11.25, depending on the category of worker. The minimum for all other forest workers was raised to \$1.50 an hour from \$1.25.

The general minimum rate for employees of municipal corporations and school boards, apart from specified categories for whom a weekly or monthly minimum wage or salary is set, is \$1.40 an hour (increased from \$1). The rate for workers under 18 is now \$1.25 an hour, instead of 80 cents.

The revised order for the shoe industry established hourly rates for five classes of skilled workers, and set a minimum percentage of the total number of employees in an establishment that may be included in each class. Rates were also set for office workers and for probationary employees. The rates are now set for two zones instead of three, with the same zoning system as is provided for in General Order 4 and in a number of the other Quebec orders. Minimum rates, which formerly varied from 90 cents to \$1.95, now vary between \$1.15 and \$2.10 (not including probationary employees).

Minimum rates for sawmill employees are now set on a province-wide basis, as has been the case for forest workers. The new general minimum for these workers is \$1.40 an hour. Employees in small sawmills (with not more than five employees) are entitled to a minimum of \$1.25; workers under 18 must also be paid not less than \$1.25; cooks, kitchen helpers and watchmen are entitled to a minimum of \$13 a day.



For workers employed in the woodworking industry the rates now set are the same as those set for workers in general under Order 4.

The standard workweek for forest workers, sawmill workers and workers in the woodworking industry is 54 hours. Work performed over and above the standard workweek must be paid for at one and one-half times the minimum hourly rate.

### **Equal Pay**

Equal pay provisions were included in the NEWFOUNDLAND Human Rights Code passed in 1969 and to be proclaimed in effect. They forbid an employer to pay a female employee at a rate of pay less than the rate paid to a male employee for the same work done in the same establishment. The Code makes it clear that a difference in wage rates based on a factor other than sex that would normally justify such difference does not constitute a failure to comply with the equal pay provisions.

In BRITISH COLUMBIA, the Equal Pay Act, the Fair Employment Practices Act and the Fair Accommodation Practices Act were consolidated, with amendments, in a new Human Rights Act. The equal pay provisions were amended to add the words "or substantially the same work", thus guaranteeing women workers the same rate of pay as male workers when they do the same work or substantially the same work in the same establishment.

In NOVA SCOTIA, equal pay provisions, formerly a part of the Human Rights Act, were enacted separately when the Human Rights Act was re-enacted and its administration transferred from the Department of Labour to the Nova Scotia Human Rights Commission.

The equal pay clauses in the new Act are essentially the same as before in that they require female employees to be paid at the same rate of pay as male employees if they do "substantially the same work" in the same establishment. A difference in the rate of pay between a male employee and a female employee is permitted only where the employer establishes that a factor other than sex justifies payment of a different rate.

While the Act continues to operate through a complaint process, the director is now empowered to make an investigation on his own initiative if he has reasonable grounds for believing that a complaint exists.

In SASKATCHEWAN, the Equal Pay Act was one of eight Acts consolidated in the Labour Standards Act, the province's labour code



enacted in 1969. No substantial change was made in the equal pay provisions.

Enforcement procedures in BRITISH COLUMBIA and NEWFOUNDLAND are invoked by complaint of the person concerned. In BRITISH COLUMBIA, if a complaint is not settled at the inquiry level (investigation by the director or an officer of the Department of Labour appointed by him), the matter may be referred to the Human Rights Commission, a permanent body established under the Act with authority to investigate complaints and to issue final orders requiring compliance. An order of the Commission may include a requirement to pay the wages owing.

The NEWFOUNDLAND Human Rights Code provides for an informal investigation into a complaint, and, if a settlement is not reached at this stage, for the appointment of a commission of one or more persons, referred to as a human rights commission, to conduct a formal inquiry and to recommend to the Minister the course that should be taken with respect to the complaint. The Minister may issue whatever order he considers necessary. The Minister's order may be appealed in the courts.

All four Acts contain clauses protecting an employee against reprisals for having made a complaint or having participated in any proceeding under the Act.

### **Hours of Work**

Under the *Canada Labour (Standards) Code*, two Orders in Council were issued in respect of employees, other than office personnel, of the Coal Division of the Cape Breton Development Corporation. Each of these Orders was made after investigation by a commission of inquiry appointed under Section 35 of the Code.

The operation of Part I of the Code in respect of these employees, as suspended by an order of the Minister of Labour for a 12-month period beginning March 30, 1968, was further suspended by the first Order in Council (the Cape Breton Development Corporation Hours of Work Extension Order) until December 31, 1969.

During the latter period the employees concerned were permitted to work standard hours of 728 hours in a 13-week period (an average of 56 hours a week), after which the overtime rate of one and one-half times the regular rate was required to be paid.

The second Order, approved by P.C. 1969-2433 on December 31, 1969, extended the period of suspension of Part I to July 31, 1971, and

established hours of work standards that must be observed during the period. The hours of work prescribed by the Order are as follows:

January 1-July 31, 1970—676 in a 13-week period (an average of 52 hours)

August 1, 1970-January 31, 1971—624 in a 13-week period (an average of 48 hours)

February 1-July 31, 1971—572 in a 13-week period (an average of 44 hours).

Work in excess of the hours prescribed must be paid for at time and one-half the regular rate.

Following the appointment of a commission of inquiry, as required by the Code, an Order was made governing the shipping industry within federal jurisdiction on the lower St. Lawrence River and on the east coast of Canada. The Order applies to the transportation of goods and/or passengers by ships operating primarily from any port in the Province of Quebec, Prince Edward Island, Nova Scotia or New Brunswick to any port in any other of such provinces or the Province of Newfoundland.

To give the industry a further period of time in which to adjust to the full requirements of the Code, the Order suspends the operation of Part I to the industry for a four-year period ending December 31, 1973, and lays down the hours of work standards to be observed for its duration.

An affected employer will be required in normal circumstances to observe a weekly maximum averaging 60 hours over a 13-week period. He will also be required to pay, at the rate of time and one-half, for all hours worked in excess of a weekly average of 50 hours during the same period. There is provision for exceeding the maximum hours in exceptional circumstances, in which case advance permission of the Minister is required, and in emergency circumstances, in which case the excess hours worked and the underlying reason must be reported to the Minister.

### **Weekly Rest-Day**

The NEWFOUNDLAND Legislature enacted the Weekly Day of Rest Act. This Act, when proclaimed in force, will require employers to grant their employees a rest period of at least 24 consecutive hours in every seven days, wherever possible on Sunday.

The Act provides for a system of temporary exemption permits. The Minister of Labour may, on application, grant a permit exempting

an employer from compliance with the Act in case of accident, essential work to be done in regard to premises or equipment, abnormal pressure of work, or danger of loss of perishables. A permit may not be granted for a period longer than 30 days. The Minister may cancel or renew a permit. There is no restriction on the number of permits or renewals that may be granted to an employer.

Where a permit is issued, an employee accumulates a period of holidays equivalent to the missed rest periods. The holidays may be with or without pay, depending on the pay provisions applicable to the missed rest periods.

Senior managerial employees and employees engaged in emergency work are exempted from the Act. The Lieutenant Governor in Council may make regulations exempting any class of employers from the requirement to give a weekly rest period.

In the most recent revision of minimum wage orders in QUEBEC, the weekly rest clause, which formerly provided for a weekly rest of 24 consecutive hours or two periods of 18 consecutive hours each, was amended to delete the reference to two rest periods of 18 consecutive hours each.

## **Annual Vacations**

The NEWFOUNDLAND Annual Vacations with Pay Act, 1969, to be proclaimed in force, requires an employer to grant an employee a vacation of at least two weeks after every completed year of employment. Vacation pay is 4 per cent of total wages for the year. In order to be entitled to the vacation, an employee must have worked for the same employer for at least 90 per cent of the regular working hours in any continuous 12-month period. The vacation must be granted within 10 months after it is earned and must be taken in periods of at least a week.

When a special holiday occurs during a vacation, the vacation must be extended by one working day.

Persons covered by a collective agreement will not start accumulating an entitlement to a vacation under the Act until the existing agreement expires.

When employment is terminated before an earned vacation is taken, the employee must be paid the vacation pay to which he is entitled. Where employment is terminated during a year before an employee becomes entitled to a vacation, he must be given 4 per cent of

his total wages for the hours worked. Vacation pay must be paid not later than a week after termination of employment.

Where employment is terminated, an employee must not be permitted to take any part of an annual vacation to which he is entitled during the period of notice, nor is vacation pay to be paid as wages during this period.

MANITOBA amended its Vacations with Pay Act to require an employer to give an employee at least 15 days' notice of the date on which his vacation is to begin, unless the employer and employee agree to a shorter period. Another amendment requires the payment of vacation pay equal to 4 per cent of regular wages to workers who do not qualify for a vacation because of intermittent service during a year.

Loggers and other forest workers in QUEBEC with one year of service with the same employer are now entitled to a two weeks' vacation, with pay at the rate of 4 per cent of earnings, provided they have worked at least 175 days during the year. On termination of employment, workers with less than a year of service must be paid 2 per cent of their wages as vacation pay.

### **Fair Employment Practices**

The NEWFOUNDLAND Legislature adopted a Human Rights Act, an extensive code dealing with employment, including trade union membership; employment agencies, application forms, advertisements and inquiries related to employment; equal pay; discriminatory advertising; public accommodation; and rental practices. Discrimination is prohibited on the usual grounds of race, religion, religious creed, colour or ethnic or national origin, with the addition of political opinion and social origin. In employment and trade union membership, discrimination is also prohibited on grounds of sex, and on grounds of age, where the worker is between the ages of 45 and 65.

The denominational education system of the province and legislation and agreements giving preference to Newfoundland labour, material and equipment are not to be affected by the Act.

The enforcement procedures are similar to those provided for under most other legislation of the same type. An avenue of appeal to the courts is, however, provided from the Minister's order.

The Act is to be proclaimed in force.

BRITISH COLUMBIA consolidated and extended the scope of its human rights legislation (the Fair Employment Practices Act, the Fair



Accommodation Practices Act and the Equal Pay Act) and established a Human Rights Commission to assist in the enforcement of the new Act.

In regard to employment discrimination, the exemption for employers of fewer than five employees was removed.

Two prohibitions were added in the employment field. Discrimination is now forbidden in employment or terms and conditions of employment and in trade union membership on grounds of sex. Discrimination because of sex, where based on a *bona fide* occupational qualification, does not, however, constitute a failure to comply with the Act. Discrimination against a complainant or person testifying in proceedings under the Act is also prohibited.

The Human Rights Commission provided for in the legislation must consist of both male and female members. The Commission, as appointed by the Lieutenant Governor in Council, has the same membership as the Board of Industrial Relations.

A complaint under the Act must be made within six months after the commission of the alleged offence. A prosecution must be commenced within the same period.

NOVA SCOTIA re-enacted its human rights legislation, with significant changes. Administration of the legislation was removed from the Department of Labour and transferred to the Nova Scotia Human Rights Commission. The revised Act contains such new features as prohibitions against discrimination in the membership of professional, business and trade associations and in volunteer organizations providing public services, such as fire protection and hospital services. Equal pay provisions formerly contained in the Human Rights Act were enacted as a separate Act.

The exemption of nonprofit charitable, philanthropic, educational, fraternal, religious and social organizations from the fair employment practices provisions was removed. Such organizations are now covered by the prohibitions of the Act. Only nonprofit organizations operated primarily to foster the welfare of a religious or ethnic group are now excluded. Domestic servants are excluded only if they are employed and live in a family home. The Act was declared to apply to the Crown and its servants and agents.

Employment agencies are forbidden to accept discriminatory inquiries from employers or job-seekers. Previously, employers were forbidden to use agencies that discriminated.



In addition to the research and advisory role it already performed, the Human Rights Commission was given responsibility for the administration and enforcement of the Act. The Commission acts through a Director of Human Rights. The latter is the Chief Executive Officer and a member of the Commission and has the status of a Deputy Head.

An informal investigation may now be made, not only when a complaint is filed, but also where the Commission has reasonable grounds for believing that a complaint exists.

If a complaint is not settled at the informal investigation stage, the Commission must report to the Minister charged with the administration of the Act. The Minister is required to appoint a board of inquiry unless the Governor in Council orders otherwise. The board must hold a public hearing. If the matter is settled through the inquiry, the terms of settlement must be reported to the Minister.

If the matter is not so settled and the board finds that the complaint is supported by "a reasonable preponderance" of the evidence, it must report its recommendations to the Commission. The Commission is then to recommend to the Minister the action necessary to give effect to the board's recommendations, and the Minister may issue an order to put the recommendations into effect.

In a prosecution under the Act, it is to be sufficient for conviction if a reasonable preponderance of evidence supports a charge that the accused has contravened the Act.

The fines that may be imposed under the Act were increased substantially.

The ONTARIO Human Rights Code was amended to narrow the exemption previously allowed for nonprofit organizations. The prohibition against discrimination in employment now applies to exclusively religious, philanthropic, educational, fraternal or social organizations and to organizations operated primarily to foster the welfare of a religious or ethnic group. The only exemption permitted for such an organization is where race, colour, creed, nationality, ancestry or place of origin is a reasonable occupational qualification.

New provisions were added forbidding reprisals against a person for making a complaint or taking part in any proceeding under the Code, and the maximum fines for a contravention of the Code were increased.

The ONTARIO Age Discrimination Act was amended to make the Act binding on the Crown and its agencies.

## **Notice of Termination of Employment**

In NEWFOUNDLAND, a new Act was passed [the Employment (Notice of Termination) Act], requiring employers and employees to give notice of termination of employment. The Act is to be proclaimed in force. Where an employee is paid once a month or more frequently the required period of notice is one regular pay period. Where the employee is paid less frequently, reasonable notice must be given. In lieu of notice, an employer may pay an employee the wages, exclusive of overtime, he would have earned during the notice period.

The requirements of the Act do not apply where a different period of notice is established (a) in a collective agreement, (b) in a written agreement of employment between an employer and employee, if the notice period is of equal length for both parties, or (c) by a well-established general custom or practice in an industry.

Where an employer is convicted of failure to give notice, the magistrate must order him to pay the employee an amount covering the wages lost by reason of failure to give notice. Where an employee is convicted of the same offence, the magistrate may order him to pay the employer all or any part of the normal wages he would have earned, had he not left without notice.

## **Workmen's Compensation**

Eight of the provincial Workmen's Compensation Acts were amended.

Apart from increases in benefits, one of the most significant changes made was that QUEBEC became the second province to tie compensation benefits to the cost of living. As of January 1, 1970, death and disability benefits will be adjusted yearly in accordance with the increase in the Pension Index established under the Quebec Pension Plan.

In BRITISH COLUMBIA, effective January 1, 1969, dependants' allowances were increased by 4.04 per cent, as a result of the cost of living provision in the Act.

The maximum annual earnings on which compensation is based were increased from \$5,600 to \$6,600 in ALBERTA and from \$5,000 to \$6,000 in NEWFOUNDLAND and PRINCE EDWARD ISLAND.

ALBERTA and ONTARIO established a higher minimum pension for permanent total disability. The minimum weekly payment for temporary total disability was increased in MANITOBA and BRITISH COLUMBIA,

in the latter case as a result of the rise in the Consumer Price Index in 1968.

In ALBERTA, the maximum allowance for funeral expenses was increased from \$250 to \$350, and the Board was authorized to pay up to \$100, instead of \$50, for a burial plot.

Widows' allowances were increased in Alberta, Manitoba and New Brunswick. In ALBERTA, a widow is now to receive a monthly pension of \$110 and a lump sum payment of \$300, instead of \$85 and \$200, respectively. In MANITOBA, a widow's pension was raised from \$100 to \$120, and her lump sum payment from \$300 to \$500. In NEW BRUNSWICK, the new monthly pension to a widow is \$100, instead of \$75.

Monthly allowances to dependent children were raised in ALBERTA and MANITOBA. In MANITOBA, children between the ages of 10 and 16 years are now to receive a larger monthly payment than children under 10. The NOVA SCOTIA Board was authorized to continue payment of compensation to the age of 21, or to the end of the school year in which a child reaches the age of 21, in respect of a child who is continuing his education.

## STATUTORY SCHOOL-LEAVING AGE

In all provinces there is a school attendance law which makes it compulsory for children between specified ages to attend school. Exceptions are permitted where a child is unable to attend because of illness or other unavoidable cause and, in most provinces, because of distance from school (where no conveyance is provided) or lack of school accommodation. Some Acts stipulate that a child may be excused from attendance before reaching the statutory school-leaving age if he has already attained a specified standing. An exception may also be granted in special cases, if it appears to be in the interest of the child that he should be excused from school attendance or where the child is certified to be under efficient instruction elsewhere.

In Manitoba, a child over 15 may be permitted to leave school on production of a certificate signed by his parent or guardian, the school attendance officer and the superintendent of schools or, if there is no superintendent, by the school inspector.

In all provinces except British Columbia, Ontario and New Brunswick, a child may be exempted from school attendance for a temporary period if his services are required for necessary farm or home duties or for employment. The New Brunswick Act states that the Minister of Education may issue a certificate relieving a child from school attendance for a maximum period of six weeks in each school term, on the written application of the child's parent, if he agrees with the reasons for such application.

The school-leaving age in each province and the provisions for exemption for employment are shown below. The laws forbid the employment of children of school age during school hours unless a child is excused for any of the reasons provided in the Act.

## Statutory School-Leaving Ages and Work Exemptions

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### *Newfoundland\**

**15.** Exemption: With certificate for a stated period, but if child is under 12 for not more than 2 months in a school year, unless with approval of Minister<sup>1</sup>.

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### *Prince Edward Island*

**15** unless has completed courses in public school. Attendance required for only 75% of term except in Charlottetown and towns where 90% attendance in required. Exemption: (1) For poverty; (2) If 12, for not more than 6 weeks in year<sup>2</sup>.

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### *Nova Scotia\**

**16**, cities and towns, **14** elsewhere but **15** or **16** may be fixed locally. Exemption: (1) If 12, for not more than 6 weeks in year<sup>3</sup>; (2) If 13, with employment certificate. Medical certificate may be required.

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### *New Brunswick*

**15** unless child has passed grade 12. Exemption: Not more than 6 weeks in each school term<sup>4</sup>.

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### *Quebec\**

**15.** Exemption: Not more than 6 weeks in year<sup>5</sup>.

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### *Ontario\**

**16** unless has completed secondary school or equivalent.

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### *Manitoba\**

**16.** Exemption: Over 12, not more than 4 weeks in year<sup>6</sup>.

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### *Saskatchewan*

**16** unless has passed grade 8. Exemption<sup>1</sup>.

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### *Alberta\**

**16.** Exemption: If 12, not more than 3 weeks in term<sup>5</sup>.

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### *British Columbia*

**15** unless has completed course at nearest public school and transport to higher school not provided.

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\* Child reaching school-leaving age required to attend school to end of school year in Newfoundland, Nova Scotia, Ontario and Quebec, to end of term in Manitoba, and in Alberta to end of June term if age reached in that term.

<sup>1</sup> If services needed for maintenance of self or others.

<sup>2</sup> If services needed in husbandry or other necessary employment.

<sup>3</sup> If services needed in farming, home duties or other necessary employment.

<sup>4</sup> If Minister agrees with the reasons for the parent's application for exemption.

<sup>5</sup> If services needed in farming, home duties, maintenance of self or others.

<sup>6</sup> If services needed in husbandry or home duties.



## MINIMUM AGE FOR EMPLOYMENT

The Canada Labour (Standards) Code and regulations do not set an absolute minimum age for employment but lay down conditions under which young persons under 17 years may be employed in federal undertakings. A young person under 17 may be employed in a federal industry only if (1) he is not required to be in attendance at school under the laws of his province; (2) the work in which he is to be employed is not likely to injure his health or endanger his safety; and (3) he is not employed underground in a mine or in work prohibited for young workers under the Explosives Regulations, the Atomic Energy Control Regulations or the Canada Shipping Act.

Employment of young workers under 17 is subject to two further conditions: (4) that an employee under 17 is not required or permitted to work between 11 p.m. and 6 a.m.; and (5) that he is paid not less than \$1 an hour, unless he is undergoing on-the-job training under an approved training plan.

The Canada Shipping Act fixes a minimum age of 15 for employment at sea.

In the provincial jurisdictions, a minimum age for employment is set by mines Acts and a variety of other provincial legislation (child labour laws, the Alberta Labour Act, the Manitoba Employment Standards Act, factory or industrial safety laws and minimum wage orders). No minimum age has been established for employment in agriculture.

Four provinces—British Columbia, Nova Scotia, Prince Edward Island and Newfoundland—have a child labour law prohibiting employment below a specified age. The Newfoundland Employment of Children Act, 1968, is to go into force on proclamation.

The British Columbia Act forbids employment of a child under 15 in specified industries or occupations, unless a permit is obtained from the Minister of Labour. The Act applies to manufacturing, shipbuilding, electrical works, logging, construction, catering, public places of amusement, the mercantile industry, shoeshine stands, automobile service stations, road transport and the laundry, cleaning and dyeing industry.

Under the Nova Scotia Act, employment of a child under 14 is forbidden in manufacturing, shipbuilding, electrical works, construction, the forest industry, garages and service stations, hotels, restaurants, the

operation of elevators, theatres and other places of amusement. The Nova Scotia Construction Safety Act sets a minimum age of 16 for employment in construction.

The Prince Edward Island law sets a minimum age of 15 years for employment in mining, manufacturing, shipbuilding, electrical works, construction and transport by road, rail or inland waterway.

The Newfoundland Act prohibits the employment of children under the age of 16, except in family undertakings. There is provision in the Act, however, for the making of regulations by the Lieutenant Governor in Council permitting the employment of children under 16 in any specified occupation, subject to such conditions as may be prescribed.

The Act lays down the conditions under which a child under 16 may be employed by his parent or guardian in a family undertaking. He may not be employed to do any work that is or may be harmful to his health or normal development or that may prejudice his attendance at school or his capacity to benefit from school instruction. He may not work more than eight hours in a day or more than three hours on a school day. Time spent at school and at work may not total more than eight hours. Work between the hours of 9 p.m. and 8 a.m. is prohibited.

In two other provinces—Alberta and Manitoba—a minimum age is fixed for most employment in the province in a law constituting a labour code or dealing with a number of employment standards.

In Alberta, the minimum age for employment in or about a factory, shop, office building, hotel or restaurant is 15 years. To engage in any other employment, a child under 15 must have the approval of the administrative board and the written consent of his parent or guardian.

In Manitoba, a child under 16 may not be employed in a factory. For any other employment, the minimum age is 16, unless a written permit is obtained from the Minister of Labour.

In the other provinces, a minimum age for a wide field of employment is established in factory or industrial safety laws and, in Saskatchewan, a minimum wage order.

In New Brunswick, no child under 16 may be employed in any place of employment except a private home, unless he has written authorization from the Minister of Labour.

In Ontario, the minimum age for employment in a factory is 15 years. A child of 14 may be employed in a shop, office or office building, restaurant, bowling alley, pool room or billiard parlour if the work is not likely to endanger his safety.

The Ontario Construction Safety Act fixes a minimum age of 16 years but permits the employment of 15-year-olds in such parts of a construction project as may be designated by the regulations. No provision has been made in the regulations to date for the employment of 15-year-olds. A minimum age of 16 has been established for the logging industry.

Since the school-leaving age in Ontario is 16 years and no exemptions are now permitted for employment, the above-mentioned minimum ages which are below the age of 16 apply only to such time as school is not in session. No child under 16 may be employed in any employment during school hours.

In Quebec, the minimum age for employment in an industrial or commercial establishment is 16 years. The same minimum age applies to employment in hotels, restaurants, theatres and other places of amusement and to the employment by a department store or telegraph company of boys or girls as messengers. Children of 15 years of age may be employed in any of these workplaces during school vacations but only with a permit from the inspector.

Boys and girls under 16 are forbidden to sell papers or carry on any street trade unless they can read and write fluently, and such work may not be carried on after 8 p.m.

In Saskatchewan, no person under 16 may work in a factory (which term includes a coal mine, potash mine and sodium sulphate mine and works), hotel, restaurant, educational institution, hospital or nursing home.

Mines Acts in all provinces but Prince Edward Island (which has no mining operations) fix the minimum age for employment in mines. The minimum age for employment in mines, factories, shops, hotels and restaurants is set out in the table below. In most provinces, as indicated above, the legislation (apart from mines Acts) covers certain other classes of establishments as well as those set out in the table.

## Minimum Age for Employment

Province	Establishment			
	Mines	Factories	Shops	Hotels Restaurants
Newfoundland	16, above ground <sup>1</sup> 18, below ground	16 <sup>1</sup>	16 <sup>1</sup>	16 <sup>1</sup>
Prince Edward Island	—	15	—	—
Nova Scotia	Coal: 18, below Metal: 16, above 18, below	14 <sup>2</sup>	—	14 <sup>2</sup>
New Brunswick	Coal: 16, above 16, below Metal: 16, above 18, below	16 except with permit	16 except with permit	16 except with permit
Quebec	16, above 18, below	16 <sup>3,4</sup>	16 <sup>3</sup>	16 <sup>3</sup>
Ontario	16, above 18, below	15 <sup>5</sup>	14 <sup>5,6</sup>	14 <sup>5,6</sup> (restaurants only)
Manitoba	16, above 18, below	16	16 except with permit	16 except with permit
Saskatchewan	Coal: 16 Metal: 16, above 18, below	16	—	16
Alberta	17, above 17, below	15	15 <sup>7</sup>	15
British Columbia	18, below <sup>8</sup>	15 except with permit	15 except with permit	15 except with permit

<sup>1</sup> Except in family undertakings. Act not yet proclaimed in force.

<sup>2</sup> 16 during school hours in cities and towns except with employment certificate.

<sup>3</sup> The Government may exempt establishments from the Act.

<sup>4</sup> For certain dangerous occupations, the minimum age is 18 for boys; for others, it is 16 for boys and 18 for girls.

<sup>5</sup> A child under 16 may not be employed during school hours.

<sup>6</sup> A child of 14 may be employed if the work is not likely to endanger his safety.

<sup>7</sup> Minimum age of 12 years in certain occupations, including work as clerk, delivery boy or delivery girl in retail store, with written consent of parent and subject to restrictions on hours (2 hours on a school day, 8 hours on any other day) if not injurious to life, limbs, health, education or morals.

<sup>8</sup> A boy who has reached the age of 17 may be employed underground for the purpose of training.

## MINIMUM WAGES

Minimum wage laws are in force in the federal jurisdiction and in all ten Canadian provinces.

The federal legislation is Part II of the Canada Labour (Standards) Code. The Code sets a minimum rate of \$1.25 an hour for employees in the federal industries. This rate applies to workers of both sexes who are 17 years of age and over, whether employed on a full-time or part-time basis. Young persons under 17, who may be employed only under conditions laid down by the regulations, must be paid not less than \$1 an hour.

Employees who are paid on other than a time basis, such as piece-workers and persons paid a mileage rate, are required to be paid the equivalent of the minimum wage.

An employer who is providing on-the-job training to increase the skill or proficiency of his employees, in accordance with conditions prescribed by the regulations, may be exempted from paying the minimum wage to such employees during the whole or part of the training period.

The Code provides also for the payment of a wage lower than the minimum rate to handicapped employees under a system of individual permits.

In Alberta, Manitoba, Ontario and Saskatchewan, minimum wage legislation is part of the province's labour code—the Alberta Labour Act, Part II; the Manitoba Employment Standards Act, Part II; the Ontario Employment Standards Act, Part IV; the Saskatchewan Labour Standards Act, Part III. The other provinces have individual minimum wage laws.

The minimum wage legislation in each of the provinces authorizes a minimum wage board or other labour board or the Lieutenant Governor in Council to recommend or establish minimum rates of wages. Minimum rates are imposed by minimum wage orders or, in Ontario, by general regulations made under the Employment Standards Act.

Except in two provinces, the Acts do not specify how the minimum wage is to be determined. In Manitoba, the board is directed to take into consideration and be guided by "the cost to an employee of purchasing the necessities of life and health". The Quebec Minimum Wage Commission is directed to consider "competition from outside countries or from the other provinces and the economic conditions peculiar to the various regions of the province".



The practice of the boards is to fix a general basic wage, taking into account the cost of living, economic conditions and other relevant factors. The minimum rate is set mainly for the protection of the unorganized and unskilled worker. It constitutes a floor above which trade unions may negotiate with management for a higher standard. The boards hold public hearings and make extensive inquiries before minimum wage orders are put into effect. Minimum wage orders are reviewed fairly frequently.

The boards that fix minimum wages are composed of members who represent the interests of employers and employees and in some cases the general public, with an impartial chairman, frequently an officer of the Department of Labour. In British Columbia at least one member of the board must be a woman, and in Nova Scotia and Saskatchewan there must be two women on the board. There is also a woman on the Alberta board, although this is not required by statute. There are two women on the Manitoba board, representing employers and employees, respectively.

In most provinces minimum wage orders now cover practically all employment except farm labour and domestic service in private homes. These two groups are everywhere excluded from minimum wage regulation. A few other classes of workers are excluded in most jurisdictions. Typical exclusions are supervisory and managerial employees, certain categories of employed students, registered apprentices, certain categories of salesmen, and members and students of professions.

In Alberta, British Columbia, Manitoba, Newfoundland, New Brunswick, Ontario and Prince Edward Island, minimum rates apply throughout the province. In the other three provinces there are regional differentials in minimum rates. Both Nova Scotia and Quebec are divided into two zones for minimum wage-setting purposes. In Saskatchewan, rates are set for the ten cities and a five-mile radius of each and for the rest of the province.

In Nova Scotia, Zone I consists of Halifax-Dartmouth, Sydney and New Glasgow and surrounding areas (ten-mile radius) and Truro, Amherst and Yarmouth and surrounding areas (five-mile radius); Zone II takes in the rest of the province.

In Quebec, Zone I comprises the Greater Montreal area, consisting of the Island of Montreal, Ile Jésus, Ile Bizard and the Chambly and Taillon electoral districts; Zone II takes in the remainder of the province.

Minimum wage orders apply to both men and women, and in seven provinces they set the same rate for both sexes. In Newfoundland, Nova Scotia and Prince Edward Island, rates are lower for women than for men.

In all provinces except British Columbia, general orders are issued setting rates that apply to most workers in the province. In most of these provinces the general orders are supplemented by special orders, applying to a particular industry, occupation or class of workers and in some cases taking into account a special skill. The British Columbia board issues a separate order for each industry or occupation. The separate orders together with a general order applicable to any employees not covered by separate orders provide coverage for most employees in the province.

The majority of the separate orders issued in British Columbia set minimum rates that may be compared to the rates set in general orders in other provinces. Orders governing factories, shops, offices, hotels, restaurants, hospitals, laundries, fish processing and elevator operators and the general order applicable to employees not covered by separate orders fix a minimum wage of \$1.25 an hour. A number of other orders set a minimum wage of \$1 an hour. In a fairly large number of orders, the board has also set minimum rates for workers having special skills, taking into consideration the prevailing rates in the trade concerned. These rates now range from \$1.30 to \$2.50 an hour. Hairdressers are entitled to a minimum wage of \$1.60 an hour. The rate set for pipeline construction and oil-well drilling is \$1.30 an hour; for the logging, sawmill, woodworking and Christmas tree industries and metal mining, \$1.50 an hour; for construction labourers, \$1.65 an hour; for electronic technicians and stationary steam engineers, \$2 an hour; for journey-men-tradesmen in the shipbuilding industry, \$2.25 an hour; and for automotive mechanics, construction tradesmen, machinists, moulders, refrigeration mechanics and sheet metal workers, \$2.50 an hour.

For purposes of comparison, the minimum rates shown in the three tables that follow (on pages 38-40) are set out not as general rates but as applying to specific workplaces—factories, shops, offices, hotels and restaurants.

General rates are set by the hour in all provinces. Weekly or monthly rates are established for a few classes of workers in various provinces.

In seven provinces the orders provide that inexperienced workers may be employed during a specified period at a rate below the regular minimum. These rates may be applicable generally or to a particular occupation. The learning period varies in length from one to nine months (see Table 2, page 39).

Provision is also made in the legislation of almost all jurisdictions for the employment of handicapped workers at rates below the established minimum either under a system of individual permits or by the setting of a special rate.

In all provinces except New Brunswick, the orders set special minimum rates for young workers or for young workers in certain categories, such as newsboys or messengers. Student rates are set in three provinces. In Prince Edward Island, the general minimum wage order for men excludes persons under 18.

The minimum rates set for young workers and for students in the various provinces are as follows:\*

Alberta	Workers under 18:	15 cents less than adult rate
	Students employed part-time:	55 cents, if under 17 65 cents, if over 17
British Columbia	Bicycle-riders and foot-messengers employed exclusively on delivery (no age specified):	50 cents
Manitoba	Workers under 18:	\$1.10
Newfoundland	Workers 16-19 years:	70 cents (males) 50 cents (females)
Nova Scotia	Workers 14-18 years: <sup>1</sup>	Zone I \$1.05 (males) 80 cents (females)
		Zone II 90 cents (males) 65 cents (females)

\* For description of zones, see page 31.

<sup>1</sup> Unless the Minimum Wage Board gives express approval, not more than 25% of an employer's total working force may be underage employees (14-18 years). In a hotel, restaurant, motel or tourist resort from June 15 to September 15, however, up to 60% of the employees may be underage workers.

Ontario	Persons under 18 employed as messengers, delivery boys, news vendors, pin setters, shoe-shine boys, golf caddies, or in the professional shop at a golf course, in a municipal public library, or in an amusement or refreshment booth at a fair or exhibition held by an agricultural association:	90 cents
	Students employed part-time (not more than 28 hours in a week), or employed from May 15 to September 15 or during Christmas or Easter vacations:	\$1
	If student required to work more than 28 hours in a week in the period May 15-September 15:	90 cents during first month of employment
Prince Edward Island	Students who work a minimum of 28 hours in a week or who work full-time from May 15 to September 15 or during Christmas and Easter vacations:	\$1 (males) 5 cents less than regular minimum rate (females)
Quebec	Workers under 18:	
	General Order and woodworking industry	Zone I, \$1.05 Zone II, 95 cents
	Hotel trade establishments	Zone I, 95 cents Zone II, 90 cents
	Service establishments	Zone I, 85 cents Zone II, 80 cents
	Municipal corporations and school boards	\$1.25
	Sawmills	\$1.25
Saskatchewan	Workers under 17:	Ten cities, \$1.10 Rest of province, \$1.05

Most general orders contain a "daily guarantee" or "call-in pay" provision requiring an employee who is called to work to be paid for a certain number of hours, even if he is not put to work or if he works for a shorter period. This two-, three- or four-hour minimum period, as the case may be, must be paid for at the minimum rate, except in British Columbia, where payment is required at the employee's regular rate of pay.

Tipping is dealt with specifically in the Newfoundland, New Brunswick, Nova Scotia, Ontario and Quebec legislation (and also in the federal labour code). These provisions make it clear that gratuities are not to be counted as part of wages. Quebec orders state that tips are the exclusive property of the employee, and the employer is not allowed to deduct them or to consider them as part of the wages paid, even with the employee's consent. In Prince Edward Island, "wages" are defined in the Minimum Wage Acts as payment by an employer to an employee, thus excluding tips. Boards in other provinces take the position that gratuities are not to be regarded as wages.

The frequency and method of wage payment are also dealt with in the minimum wage legislation of several jurisdictions. The federal labour code, the minimum wage legislation of British Columbia and Quebec, an order of the Minimum Wage Board under the Saskatchewan Labour Standards Act, the Manitoba Employment Standards Act, the Ontario Employment Standards Act and the Alberta Labour Act lay down requirements regarding the furnishing of pay statements to employees.

In these jurisdictions, subject to the exceptions noted below, the employer is required to give each employee on each regular payday a statement showing specified particulars, such as the number of hours the employee is being paid for, wage rate, details of deductions, and net earnings. An employer may be exempted from this requirement in the federal jurisdiction by order of the Minister of Labour and in Saskatchewan by permit from the Chairman of the Minimum Wage Board.

In Manitoba, it is mandatory for an employer to give his employees pay statements on each payday but, if wages and deductions are the same over a period of time, a pay statement may be given at the beginning of the period and each time there is a change in wages or deductions. An earnings statement must be given, however, at the request of the employee or at the direction of the Minister of Labour.

In Alberta, employers with 11 or more employees must give their employees pay statements with their pay for each pay period. The employer with fewer than 11 employees must furnish such a statement on request.

Under annual vacations legislation in New Brunswick and Prince Edward Island, an employer must furnish an earnings statement for any specified period, if his employee requests it.

Requirements are also laid down in minimum wage orders regarding the provision and maintenance of uniforms, where these are required to be worn.



There are provisions in the orders of most provinces (and also in the federal labour code) relating to charges or deductions for board and lodging, where furnished by the employer to the employee.

In some jurisdictions (federal, Alberta, Newfoundland, New Brunswick, Nova Scotia, Prince Edward Island and Quebec), the orders set limits on the amounts by which such charges may reduce the minimum wage. The Ontario orders fix the maximum amounts at which meals or a room or both may be valued for minimum wage purposes, where board and lodging are provided as part of wages. In the other provinces, the orders set the maximum charges or deductions that may be made.

In Manitoba, an employer who is in the business of supplying meals to customers may not charge an employee more than half the charge made to a customer for the same meal. If he is not in the business of furnishing meals, he may not deduct more than the prescribed amounts.

The Saskatchewan order containing special provisions applicable to hotels, restaurants, educational institutions, hospitals and nursing homes specifies the maximum deductions that may be made for board and lodging, but states that these limits are not to apply with respect to employees of educational institutions, hospitals, or nursing homes who are paid more than \$50 a week.

Maximum charges or deductions are not set in British Columbia orders. If the board finds that services are inadequate or charges are excessive, it may specify the maximum charges that may be made.

The maximum permitted charges or deductions for board and/or lodging under the Canada Labour (Standards) Code and the provincial minimum wage orders are as follows:

	Meals		Lodging		Board and Lodging
	single	per week	per day	per week	per week
Federal.....	50¢		60¢		
Alberta.....	35¢	\$6	50¢	\$3	
Manitoba.....	35¢ <sup>1</sup>	\$7		\$3	
Newfoundland.....	25¢ <sup>2</sup>				
New Brunswick.....	50¢	\$7.50		\$2.50	\$10
Nova Scotia.....	40¢	\$7		\$3	\$10
Ontario.....	60¢	\$12		\$5	\$17
Prince Edward Island.....	40¢	\$7		\$3	\$10
Quebec.....	60¢			\$3	\$15
Saskatchewan.....	50¢ (or \$1.50 per day) <sup>3</sup>		50¢ <sup>3</sup>		

<sup>1</sup> 35c per meal or \$7 for all meals furnished in a week, whichever is the lesser amount (see preceding page).

<sup>2</sup> Applies to hotel and catering industry, including hospitals, sanatoria and nursing homes.

<sup>3</sup> Applies to hotels, restaurants, educational institutions, hospitals and nursing homes (see preceding page).

The above charges apply generally or to the classes of workplaces indicated. Maximum deductions in construction, mining, primary transportation, logging and sawmill operations in New Brunswick are \$2.10 a day for board and lodging or 70 cents for a single meal. In sawmill and forest operations in Quebec deductions may not exceed \$1.95 a day for board and lodging or 65 cents for a single meal. Charges or deductions for board and lodging in logging and forest operations may not exceed \$2 a day in Nova Scotia or \$2.50 a day in Saskatchewan. In service establishments in Quebec, not more than 20 per cent of an employee's minimum wage may be deducted for heated lodging and not more than 15 per cent of the minimum wage for unheated lodging provided by the employer for the employee.

## 1. Minimum Rates for Experienced Workers\*

Province	Establishment	
	Factories—Shops Offices	Hotels—Restaurants
Newfoundland	Workers 19 and over: 85¢ (women) \$1.10 (men)	Same
Prince Edward Island	Men over 18 <sup>1</sup> \$1.25 women 95¢	Same
Nova Scotia	Workers 18 and over: men \$1.25, Zone I \$1.15, Zone II women \$1, Zone I 90¢, Zone II	Same
New Brunswick	\$1.15 <sup>2</sup>	Same
Quebec	Workers 18 and over: \$1.25, Zone I \$1.15, Zone II <sup>3</sup>	\$1.05, Zone 1 \$1, Zone II
Ontario	\$1.30	Same
Manitoba	Workers 18 and over: \$1.35	Same
Saskatchewan	Workers 17 and over: \$1.25, ten cities and five-mile radius \$1.15, rest of province	Same
Alberta	Workers 18 and over: \$1.25, increasing to \$1.40 on April 1, 1970 and to \$1.55 on October 1, 1970	Same
British Columbia	\$1.25 <sup>4</sup>	Same

\* For description of zones, see page 31.

<sup>1</sup> \$1 an hour, increasing to \$1.10 on January 1, 1970 for male workers in food processing plants; \$1 an hour for potato warehousemen.

<sup>2</sup> \$1.25 an hour for sawmill operations.

<sup>3</sup> \$1.40 an hour for sawmills (\$1.25 for those with fewer than 5 employees); \$1.30-\$2.10 in Zone I and \$1.20-\$1.90 in Zone II for skilled workers in the shoe industry.

An increase in the general minimum wage to take effect in four steps (May 1 and November 1, 1970 and May 1 and November 1, 1971) was announced. As of November 1, 1971, a general minimum rate of \$1.50 an hour, a minimum rate of \$1.30 for hotel trade establishments, and a minimum rate of \$1.35 for service establishments are to go into effect. These rates will apply throughout the province.

<sup>4</sup> \$1.50 an hour in sawmill and woodworking industries; \$1 for fresh fruit and vegetable processing.

## 2. Minimum Rates and Learning Periods for Inexperienced Workers\*

Province	Establishment	
	Factories—Shops Offices	Hotels—Restaurants
Prince Edward Island	During probationary period of 30 days: 5 cents an hour less than the minimum rate	Same
New Brunswick	During first 4 months of employment: 10 cents an hour less than the minimum rate <sup>1,2</sup>	Same
Quebec	Workers 18 and over, during first 60 working days: \$1.15, Zone I \$1.05, Zone II <sup>3</sup>	During first 60 working days: 95¢, Zone I 90¢, Zone II
Ontario	During first 4 months of employment: \$1.20 <sup>1</sup>	For first month of employment: \$1.15 <sup>1</sup>
Manitoba	Workers 18 and over, during first 3 months of employment: 15 cents an hour less than the minimum rate, but not less than \$1.10; during second 3 months 5 cents an hour less than the minimum rate	Same
Alberta	During 2 four-week periods in the garment industry (women): \$1 (first 4 weeks); \$1.15 (second 4 weeks) <sup>4</sup>	—

\* For description of zones, see page 31. The Newfoundland and Saskatchewan orders make no provision for lower rates for learners. In Nova Scotia, inexperienced workers' rates apply only to beauty parlor employees and cover a period of nine months. Some British Columbia orders make provision for rates lower than the minimum in the first 3 months of employment. These rates do not apply to the workplaces shown in the table, except to factories in which the fresh fruit and vegetable industry is carried on.

<sup>1</sup> Not more than 20% of the total number of employees in an establishment may be employed as learners.

<sup>2</sup> In sawmills, 10 cents less than the minimum rate (\$1.15) may be paid during the first 3 months of employment.

<sup>3</sup> In the shoe industry, \$1.20 in Zone I and \$1.10 in Zone II may be paid during the first 60 working days.

<sup>4</sup> To pay inexperienced workers' rates, the employer must obtain a permit from the Board. Not more than 25% of the workers employed by an employer in the garment industry may be paid inexperienced workers' rates.

### 3. Overtime Rates

Province	Establishment
	Factories—Shops—Offices Hotels—Restaurants
Newfoundland	1½ times the minimum rate after 48 hours <sup>1</sup>
Prince Edward Island	1½ times the minimum rate after 48 or normal hours, if less (women only) <sup>2</sup>
Nova Scotia	1½ times the minimum rate after 48 hours
New Brunswick	1½ times the minimum rate after 48 hours <sup>3</sup>
Quebec	1½ times the regular rate after 48 hours in factories, shops and offices; 1½ times the minimum rate after 54 hours in hotels and restaurants <sup>4</sup>
Ontario	1½ times the regular rate after 48 hours <sup>5</sup>
Manitoba	1½ times the regular rate after 8 and 44 hours (women) and after 8 and 48 hours (men) <sup>6</sup>
Saskatchewan	1½ times the regular rate after 8 and 44 hours, <sup>7</sup> but after 48 hours in shops and offices in centres with under 500 population, and after 48 hours in hotels and restaurants in centres other than cities <sup>6</sup>
Alberta	1½ times the regular rate after 9 and 44 hours
British-Columbia	1½ times the regular rate after 8 and 40 hours <sup>8</sup>

<sup>1</sup> Not applicable to workers employed in fish processing. Shop employees governed by the Hours of Work Act are entitled to one and one-half times the regular rate after 8 hours in a day or 40 hours in a week.

<sup>2</sup> Women employed in the restaurant and tourist industries from June 15 to September 15 are not entitled to overtime pay. Overtime rate for seasonal employees in food processing is 1½ times the minimum rate after 60 hours in a week; persons employed by employers in this industry who do not operate for more than 5 weeks in a year are not entitled to overtime pay.

<sup>3</sup> One and one-half times the minimum rate after 54 hours in sawmill operations.

<sup>4</sup> Employees in factories, shops and offices who receive at least \$80 for a standard work week in Zone I and \$70 in Zone II or who, if paid a fixed weekly, monthly or annual salary, receive at least those amounts, watchmen, employees in fish processing, and employees in fruit and vegetable processing during the harvest season are not entitled to overtime pay. Workers in hotels or restaurants who are paid on a fixed weekly, monthly or annual salary basis at least \$75 a week in Zone I and \$65 in Zone II and watchmen are not entitled to payment for overtime.

In the shoe industry, one and one-half times the regular rate must be paid after 45 hours of work in a week; watchmen, foremen and assistant foremen are excluded from the overtime provisions. In sawmills and the woodworking industry, one and one-half times the minimum rate must be paid after 54 hours. Excluded from the overtime pay requirement under both orders are employees who are paid on a fixed weekly, monthly or annual salary basis and earn at least a fixed amount (\$75 a week in sawmills; \$70 a week in Zone I and \$65 a week in Zone II in the woodworking industry). Cooks, kitchen helpers and watchmen in sawmills are also not entitled to overtime pay. For description of zones, see page 31.

<sup>5</sup> Provision for overtime pay is contained in Part III of the Employment Standards Act and in regulations under that Act. One and one-half times the regular rate must be paid after 60 hours for seasonal employees who do not work more than 16 weeks in a year in fruit and vegetable processing; in the hotel, motel, tourist resort, restaurant and tavern industry, seasonal employees who do not work more than 16 weeks in a year and are provided with room and board must be paid one and one-half times their regular rate after 55 hours.

<sup>6</sup> Provision for overtime pay is contained in Part III of the Employment Standards Act in Manitoba and in Part II of the Labour Standards Act and an order under it in Saskatchewan.

<sup>7</sup> Overtime payable after 9 and 44 hours in case of a 5-day week.

<sup>8</sup> Where the Board approves an agreement under which hours limits may be exceeded, provided the weekly average over a specified period does not exceed 44 hours, the overtime rate must be paid after an average of 40 hours in a week.



## EQUAL PAY

The Parliament of Canada enacted legislation in 1956, the Female Employees Equal Pay Act, which requires payment of equal remuneration for equal work as between the sexes in employment within federal labour jurisdiction.

All provinces but Quebec have enacted equal pay laws, although the Newfoundland legislation has not yet been proclaimed in effect. The Quebec fair employment practices law (the Employment Discrimination Act) forbids discrimination in employment on the basis of sex, thus prohibiting, *inter alia*, discrimination in rates of pay solely on grounds of sex (see page 74).

Manitoba, New Brunswick and Nova Scotia have separate equal pay Acts. In three provinces, equal pay provisions are contained in the province's labour code—the Alberta Labour Act, Part VI; The Ontario Employment Standards Act, Part V; and the Saskatchewan Labour Standards Act, Part V. In three other provinces, equal pay provisions form part of human rights legislation—the British Columbia Human Rights Act, and the Newfoundland and Prince Edward Island Human Rights Codes.

The Acts provide for equal pay for equal work without discrimination on grounds of sex, but vary with regard to the definition of what constitutes equal work.

The British Columbia, Newfoundland, New Brunswick, Nova Scotia, Ontario and Prince Edward Island Acts refer, with some variations, to "the same" work done or performed in the same establishment.

The Newfoundland and New Brunswick legislation forbids an employer to pay a female employee at a rate of pay less than the rate paid to a male employee for *the same work done in the same establishment*.

The Nova Scotia and Prince Edward Island Acts state that an employer may not pay a female employee at a rate of pay less than the rate paid to a male employee for *substantially the same work done in the same establishment*. The British Columbia Act was amended in 1969 to refer to *the same work or substantially the same work done in the same establishment*.

The Ontario provisions protect persons of either sex against discrimination in the payment of wage rates and lay down certain criteria for determining whether the work performed by a male employee and a female employee is the same. The employer is prohibited from paying a

female employee at a lesser rate of pay than that paid to a male employee, or vice versa, for *the same work performed in the same establishment, the performance of which requires equal skill, effort and responsibility, and which is performed under similar working conditions.*

An employer is forbidden to reduce the rate of pay of an employee in order to comply with the equal pay requirement. Further, employee or employer organizations may not cause or attempt to cause an employer to pay wages that contravene the equal pay provisions of the Act.

The Saskatchewan Act refers to "comparable" rather than "the same" work. It forbids discrimination in the payment of wages between a female employee and a male employee for *work of comparable character done in the same establishment.*

The federal, Manitoba and Alberta statutes refer to "identical" or "substantially identical" work. The Manitoba Act, like the Ontario Act, forbids wage discrimination against either sex.

Under the Manitoba Act, an employer is forbidden to pay to the employees of one sex wages on a scale different from that on which wages are paid to employees of the other sex in the same establishment, *if the work required of, and done by, employees of each sex is identical or substantially identical.* The federal and Alberta Acts forbid an employer to employ a female employee for any work at a lesser rate of pay than the rate at which he employs a male employee for *identical or substantially identical work.*

By way of clarification, these Acts state that the work of a male and a female employee is to be deemed identical or substantially identical if the job, duties or services the employees are called upon to perform are identical or substantially identical (in Manitoba, "identical or substantially identical in kind or quality and substantially equal in amount").

All the Acts make it clear that a difference in rates of pay based on a factor other than sex does not constitute failure to comply with their requirements. In Nova Scotia, however, the employer must establish that a factor other than sex justifies a different rate of pay.

The federal and Manitoba Acts list a number of these factors, stating that a difference in rates of pay of male and female employees based on length of service or seniority, location or geographical area of employment (and, in Manitoba, performance or capacity), or any factor other than sex considered by a referee or court to justify payment of different rates is not considered to be in contravention of the law.

The Ontario Act contains three specific exceptions in addition to the general exception permitting a differential based on any factor other than sex. Differences in rates of pay based on (a) a seniority system, (b) a merit system, or (c) a system that measures earnings by quantity or quality of production do not constitute discrimination within the terms of the Act.

“Establishment”, as used in the substantive provision of the provincial Acts (except that of Alberta), is defined as a place of business or the place where an undertaking is carried on.

The Manitoba, Newfoundland, New Brunswick, Ontario, Prince Edward Island and Saskatchewan equal pay legislation is applicable to provincial government employees. The federal Act covers employees of Crown corporations but does not apply to other federal public servants. Rates of pay of classified public servants are set by classification, according to the type of work performed, without any distinction based on sex.

Ontario equal pay provisions are now enforced through regular inspection by the field staff of the Department of Labour. In the other jurisdictions, other than Nova Scotia, the procedure laid down by the Act to enforce equal pay for equal work may be invoked only if the person claiming to have been discriminated against registers a complaint. In Nova Scotia, while investigation is normally initiated through the filing of a written complaint, the director appointed under the Act may also order an inquiry where he has reasonable grounds for believing that a complaint exists. In Manitoba, the employee must make a complaint within 30 days after receiving his or her first wages at an unlawful rate in order to have it dealt with under the Act. The British Columbia legislation imposes a six-month time-limit for making a complaint.

In Ontario, the Director of Employment Standards (who, under the direction of the Minister of Labour, administers the Employment Standards Act) has authority to determine the amount of wages owing to an employee, where in his opinion an employer has contravened the equal pay provisions. For purposes of enforcement of the Act, such amount is to be deemed unpaid wages.

Where the Director cannot determine the amount owing, the Minister may, on his recommendation, appoint a board of inquiry. A board of inquiry has the powers of a conciliation board under the Labour Relations Act. The board is required to hear the parties and to recommend to the Director the course of action that ought to be followed.

Under the wage collection procedure of the Employment Standards Act, the Director may collect unpaid wages (including overtime pay and vacation pay) for an employee up to a maximum of \$1,000. An employer who disagrees with a determination of the Director has the right to appeal to the Minister, within a period of 21 days after being notified of the determination. The Minister or a person designated by him is required to review the matter at a hearing, giving the employer full opportunity to make submissions, and to determine the amount owing to the employee.

The Acts that require a person claiming wage discrimination based on sex to register a written complaint lay down a different procedure.

A complaint is to be registered in the federal jurisdiction and in Newfoundland, New Brunswick and Prince Edward Island, with the Minister of Labour; in British Columbia, Manitoba, Nova Scotia and Saskatchewan, with a designated officer of the Department of Labour (the director); and in Alberta, with the Chairman of the Board of Industrial Relations.

In all these jurisdictions, the legislation provides for an initial informal investigation into a complaint by an officer of the Department of Labour (in British Columbia and Newfoundland, by the director or another officer of the Department of Labour; in Manitoba and Nova Scotia, by an officer of the Department of Labour or any other person).

In Newfoundland, New Brunswick, Nova Scotia and Saskatchewan, if the person designated to make the inquiry is unable to settle the matter, a board or commission of one or more persons may be appointed. The Saskatchewan Act refers to an *ad hoc* committee; in the Newfoundland Act, the commission is called a Human Rights Commission. (In Newfoundland, the Minister may, in addition, appoint a commission when he deems it desirable to have an inquiry made into any matter within the purview of the Act.) In Alberta, the complaint may be referred to an existing board, the Board of Industrial Relations. In British Columbia, the director may refer the matter to the Human Rights Commission, a permanent body established under the Act. The Commission may dismiss a complaint at any stage of proceedings if it is of the opinion that it is without merit. Under the federal and Manitoba Acts, the second stage of the procedure is the appointment of a referee, who may or may not be an officer of the Department of Labour. In Prince Edward Island, the Minister must inquire into the matter, if it is not settled at the earlier stage.



The Board, commission, *ad hoc* committee, referee or Minister is given full powers to conduct a formal inquiry. All the Acts provide that the parties to the complaint must be given an opportunity to present evidence and to make representations.

The recommendations of the board, commission, committee or referee, as the case may be, may be put into effect by an order of the Minister of Labour, except under the federal, Alberta and British Columbia Acts. Under the federal Act, the referee, and under the Alberta Act, the Board of Industrial Relations, is empowered to issue an order. In British Columbia, the Human Rights Commission must issue an order, if it finds there has been a contravention of the Act. In Prince Edward Island, if the Minister finds the complaint to be justified, he must direct the course of action that ought to be taken and may issue an order to put it into effect. Under all the Acts, compliance with the order is required. In Newfoundland, the order of the Minister may be appealed to the Supreme Court. In British Columbia, an order of the Human Rights Commission may be enforced by filing it in the Supreme Court.

Under the federal Act, the order of the referee may include a requirement to pay any wages owing to the employee as a result of the employer's failure to comply with the Act during a period of up to six months preceding the date of the complaint. The British Columbia Human Rights Commission may direct the person to cease and rectify the contravention. It may also include a direction to pay the wages lost as a result of the contravention.

In Manitoba, an information may be laid against an employer who fails to comply with an order of the Minister and the magistrate may order the employer to pay any wages found to be due to the employee.

Provision is made in all the Acts for prosecution in the courts as a last resort. Failure to comply with the Act or an order is made an offence punishable by a fine. In Alberta, the court, in addition to imposing a fine, must order the employer to pay any back wages owing to the employee, covering a period of up to six months before the beginning of the prosecution. Under the federal Act, the employer may also be made liable for payment of wages found to be due, covering a maximum period of six months. In Newfoundland and Saskatchewan, the magistrate must order the payment of wages due, in addition to imposing a fine.

In the federal jurisdiction and in Manitoba, employees bound by collective agreements are in certain circumstances not permitted to



make a complaint under the Act. Under the federal Act, the employees excluded are those subject to an agreement which contains an equal pay provision in substantially the same terms as the Act and which sets out a grievance procedure for the settlement of disputes. In Manitoba, no complaint may be made against an employer bound by a collective agreement to which the Labour Relations Act or Part XVIII of the Public Schools Act applies.

Eight of the Acts—the federal Act and those of Alberta, British Columbia, Manitoba, Newfoundland, Nova Scotia, Prince Edward Island and Saskatchewan—make it an offence for an employer to dismiss or otherwise discriminate against an employee because he has made a complaint or given evidence under the Act.

## HOURS OF WORK

### FEDERAL

Hours of work of employees in undertakings within federal labour jurisdiction are regulated by the Canada Labour (Standards) Code, Part I.

The Code sets a standard workday and workweek and requires payment of an overtime rate for work done beyond the hours specified. It also establishes a maximum workweek, overtime hours being restricted to 8 in a week, except in special circumstances.

Under the Code, standard hours (the number of hours that may be worked at regular rates of pay) are limited to 8 in a day and 40 in a week. Hours in excess of 8 and 40 may be worked, however, provided one and one-half times the regular rate is paid, up to a maximum of 48 hours in a week.

In a week in which an employee is entitled to a holiday with pay (under Part IV of the Code) the overtime rate is to be paid after 32 hours, instead of 40. In calculating overtime for the week, no account is to be taken of any time worked on the holiday.

Since some types of employment may call for a more flexible arrangement of working hours, the Code permits the averaging of hours over a period of two or more weeks. Under a system of averaging, working hours may vary from day to day or from week to week so long as the total standard hours do not exceed 40 multiplied by the number of weeks in the averaging period. The overtime rate (one and one-half

times the regular rate) must be paid at the end of the averaging period for all hours worked in excess of such standard hours.

The total number of hours that may be worked by an employee in an averaging period is the product of the number of weeks in the period multiplied by 48.

Averaging is permitted for any class of employees who have no regularly scheduled working hours or who have regular hours but the number of hours scheduled differs from time to time. On notification to the Department of Labour, an employer may select an averaging period of 13 weeks or less.

If an employer requires a longer period for averaging than 13 weeks in order to provide for a period in which fluctuations take place (e.g., where there are seasonal rush and slack periods during the year), he must obtain the approval of the Minister of Labour. The same conditions apply as to a period of 13 weeks or less. The period over which hours may be averaged may be as long as a full year.

An employer who has adopted an averaging plan is required to post clear information about the plan in places where it can readily be seen by the employees affected.

When an employee terminates his employment of his own accord during an averaging period, he is not entitled to overtime pay. If his employment is terminated by the employer, however, he must be paid overtime pay for any hours worked in excess of an average 40-hour week over the period he has worked.

Exceptions from the maximum workweek are permitted in certain circumstances. Work in excess of 48 hours in a week (or the maximum hours established in an averaging period) may be allowed under permit, when the Minister, having given due regard to the conditions of employment and the welfare of the employees, is satisfied that such exceptional conditions exist as to make the working of additional hours necessary.

A permit is issued for a definite period of no longer duration than the time the exceptional circumstances are expected to continue. The permit may specify either the total amount of excess overtime that may be worked in the period or the additional number of hours per day or per week that the employees may work. The number of employees engaged in such excess overtime and the extent of the overtime worked by each must be reported in writing to the Minister within 15 days after the overtime permit expires or within a time fixed in the permit.

Maximum weekly hours may also be exceeded to make up for the time lost due to an accident, breakdown in machinery or other emergen-

cy. The employer is required to report such emergency work within a specified time.

The operation of Part I may be deferred or suspended with respect to any undertaking or class of employees for a period of not more than 18 months by an order of the Minister, or, following an inquiry, for a longer period by an order of the Governor in Council, made on the recommendation of the Minister.

An order of the Minister may simply remove the obligation to comply with Part I pending further investigation or it may set hours of work standards to be observed for its duration. An order of the Governor in Council must lay down standards of working hours, and such standards may vary for different periods of time. The order may not be amended or revoked without the holding of a further inquiry.

During 1969, several Orders in Council were issued under the authority of the Code, and an existing Order was amended. One—the Cape Breton Development Corporation Hours of Work Extension Order—suspended the application of Part I of the Code to employees of the Coal Division of the Corporation, and laid down standards of working hours in line with the recommendations of a commission of inquiry. The hours of work provisions of the Code were suspended until December 31, 1969 or until collective agreements were negotiated, whichever was earlier. The Order did not apply to office employees. A second Order extended the period of suspension to July 31, 1971. Employees to whom the Order applies are permitted to work an average of 52 hours a week over a 13-week period in the interval from January 1 to July 31, 1970; an average of 48 hours over 13 weeks in the period from August 1, 1970 to January 31, 1971; and an average of 44 hours over 13 weeks in the period from February 1 to July 31, 1971. One and one-half times the regular rate must be paid for work in excess of the hours prescribed.

A further Order—the Great Northern Railway Company Hours of Work Extension Order—suspended the operation of Part I of the Code to the employees of the Company until the Minister of Labour rejects a deferment for all railways or until the Governor in Council issues a new order. The hours of work of the employees concerned are to be governed by existing collective agreements.

A new Order cited as the St. Lawrence River and East Coast of Canada Transportation of Goods by Ship Hours of Work Extension Order suspended the operation of Part I for a four-year period ending December 31, 1973, to employers and employees engaged in shipping from any port in the Province of Quebec, Prince Edward Island, Nova

Scotia or New Brunswick to any port in any other of these provinces or the Province of Newfoundland. Employees are permitted to work a weekly maximum averaging 60 hours over a 13-week period but must be paid at the overtime rate of time and one-half after a weekly average of 50 hours during the same period.

The Newfoundland Shipping Hours of Work Extension Order was amended to permit an undertaking operating out of Newfoundland to comply with the Code, rather than with the Order.

## PROVINCIAL

### **General Hours of Work Laws**

Five provinces have Acts of general application regulating working hours (the Alberta Labour Act, Part I; the British Columbia Hours of Work Act; the Manitoba Employment Standards Act, Part III; the Ontario Employment Standards Act, Part II; and the Saskatchewan Labour Standards Act, Part II). These Acts are of two types.

The Acts of Alberta, British Columbia and Ontario set a maximum number of hours per day and per week beyond which an employee must not work. Hours are limited in Alberta and British Columbia to 8 in a day and 44 in a week and in Ontario to 8 in a day and 48 in a week.

All three laws provide for exceptions in certain circumstances. Exceptions are authorized in orders or regulations or through the issuing of a permit. In both Alberta and British Columbia, the administrative board has authority not only to permit working hours to exceed statutory limits but also to fix the minimum wage payable for overtime. In both provinces the board has made special orders for a considerable number of industries, permitting variations from the daily and weekly hours specified in the Act or exempting workers entirely from hours limitations.

In Ontario, the Director of Employment Standards may, by permit, authorize hours of work in an establishment in excess of 8 and 48, subject to specific limits laid down in the Act. The limit for overtime is 12 hours in a week for an engineer, fireman, full-time maintenance man, receiver, shipper, delivery truck driver or his helper, watchman, or



any other person who, in the opinion of the Director, is engaged in a similar occupation. For all other employees (excluding girls under 18) the limit for excess hours is 100 hours in each year for each employee.

The Director may also issue a permit authorizing working hours in excess of the overtime limits set out above, if he is satisfied that the nature of the work or the perishable nature of the raw material being processed requires the excess hours.

In no case may a girl under the age of 18 work more than 6 hours overtime in a week.

Subject to certain exceptions set out in the regulations, one and one-half times the regular rate must be paid for work done, under permit, beyond 48 hours in a week.

Taxi drivers, ambulance drivers and their helpers are not entitled to overtime pay. In certain industries—highway transport, local cartage, road building, sewer and watermain construction, the hotel, motel, tourist resort, restaurant and tavern industry (seasonal employees) and fruit and vegetable processing (seasonal employees)—extended hours, 50, 55 or 60, as the case may be, may be worked before the overtime rate applies.

The Manitoba and Saskatchewan Acts set standard hours as opposed to maximum hours. They do not limit the hours which may be worked in a day or in a week but require the payment of time and one-half the regular rate after a specified number of daily or weekly hours. To prevent the working of excessively long hours, the Saskatchewan Act empowers the Lieutenant Governor in Council to limit daily hours in any occupation to 12, except in special circumstances or when permission to work longer hours has been obtained from the Minister of Labour.

The Manitoba law requires payment of the overtime rate (time and one-half) after 8 and 48 hours (44 for women).

The Saskatchewan Act requires payment of the overtime rate after 8 and 44 hours.



The Manitoba and Saskatchewan laws also provide for exceptions. The Manitoba law permits working hours to be varied in certain circumstances without payment of the overtime rate. The Manitoba Labour Board must review once a year any orders it makes under this authority.

In Saskatchewan, it has been necessary to provide for some relaxation of the provisions of the Act, and regulations permit a 48-hour week to be worked in workplaces, other than factories, in the smaller centres before overtime rates apply. Other regulations permit hours to be averaged over a specified period, thus allowing some variation from week to week. Certain classes of employees have been entirely exempted from the Act, with the result that these classes have no entitlement to overtime pay.

Under all the Acts, there is provision for working daily hours in excess of 8 in order to establish a 5- or 5½-day week, so long as weekly hours are not exceeded. There is also provision, except in Saskatchewan, for hours to be exceeded in emergencies.

Maximum hours fixed under provincial hours of work laws and the application of each Act in general terms are set out below.

Province	Daily and Weekly Limits	Application
Alberta	8,44	All employment except farm labour and domestic service. Exceptions allowed for some industries (e.g., trucking, taxicab, lumbering, highway and pipeline construction).
British Columbia	8,44	Applies to industries in Schedule, including: <div> <div>mining</div> <div>manufacturing</div> <div>construction</div> <div>barbering</div> <div>mercantile</div> <div>elevator operators</div> </div> <div> <div>baking</div> <div>catering</div> <div>hotel clerks</div> <div>truck drivers</div> <div>bus operators</div> </div> Exceptions allowed for some industries (e.g., trucking, logging, fruit and vegetable canning, bus operators).
Ontario	8,48	Applies to employees with the exception of: Persons employed in construction, commercial fishermen, farm workers, municipal firemen and policemen, resident janitors or caretakers, commission salesmen, domestic servants, fishing or hunting guides and a few other classes of employees.
Manitoba	Limits of 8,48 (men) and 8,44 (women) apply unless time and one-half the regular rate is paid.	Applies to most employment. Farming, domestic service, fishing and construction excluded.
Saskatchewan	Limits of 8,44 (8,48, except for factories, in smaller centres) apply unless time and one-half the regular rate is paid.	Most employment. Farm workers, domestic servants in private homes, janitors in residential buildings, logging, fishing and fish processing, road construction excluded. Exceptions allowed for some industries (e.g., oil truck drivers, newspaper staff, pipeline construction).

### Other Legislation Restricting Hours

Apart from general hours of work laws, other statutes regulate working hours in some industries. Schedules under industrial standards

legislation in seven provinces, and decrees under the Quebec Construction Industry Labour Relations Act and Collective Agreement Decrees Act regulate hours in construction and other industries. Schedules and decrees apply to designated zones; a number apply throughout the province. Generally speaking, standard weekly hours for the construction trades range from 40 to 48, but 50-, 54- and 55-hour limits are in effect in some areas of Quebec. A 40-hour week is the usual standard in the larger centres. In another industry regulated by schedules and decrees in Ontario and Quebec, the manufacture of men's and ladies' clothing, standard weekly hours are usually 37½ or 40. In one branch of the industry, standard weekly hours have been reduced to 36 and a 35-hour week will go into effect in 1970.

In Manitoba, maximum hours which may be worked at regular rates are set under the Construction Industry Wages Act, which applies to both private and public construction work. At the present time a 40- or 42½-hour week is in effect for most classifications of construction work in the Greater Winnipeg area, and a 48-hour week in the rest of the province. In the heavy construction industry, the maximum hours of work payable at regular rates are 60 except in Metropolitan Winnipeg during the period from November 1 to April 30, when a 48-hour week is in effect.

Mining legislation in New Brunswick and Nova Scotia, which sets a maximum 8-hour day for underground work in mines, provides the only statutory regulation of hours of work of miners in those provinces; hours of work Acts apply to mining in other provinces.

Working hours of women and young persons are restricted by the New Brunswick Minimum Employment Standards Act and by factory legislation in two other provinces. Under the New Brunswick Minimum Employment Standards Act, which is applicable to any place of employment other than a private home or a farm, hours of women and boys under 18 years are limited to 9 in a day and 48 in a week, unless special permission to work longer hours is obtained from the Minister of Labour. Quebec factory law restricts hours of women and boys under 18 to 9 in a day and 50 in a week in factories and to 54 hours in a week in commercial establishments. In Saskatchewan, women and boys under 18 employed in factories are prohibited from working more than 48 hours in a week.

The minimum wage regulations in Manitoba limit the number of hours of overtime which women may work to 3 in a day, 12 in a week and 24 in a month.

In Newfoundland, the Hours of Work Act limits working hours of shop employees anywhere in the province to 8 in a day and 40 in a week, unless one and one-half times the regular rate is paid.

In all provinces except Manitoba, Ontario and Saskatchewan, there is also some indirect regulation of hours by virtue of provisions in minimum wage orders requiring the payment of an overtime rate after a specified number of hours of work.

A minimum wage order of considerable significance with regard to working hours because of its wide coverage is General Minimum Wage Order 4 in Quebec. Order 4 is a blanket order applying to all employees in the province except those covered by decrees, workers governed by special minimum wage orders, farm workers, domestic servants, workers whose hours cannot be controlled and a few other minor groups. The minimum rates set by Order 4 apply to a standard workweek of 48 hours, after which an overtime rate of one and one-half times the regular rate must be paid. Exemptions are permitted, however, from the requirement to pay the overtime rate, and the determining factor is the amount of pay received for the regular workweek. Workers receiving at least a specified weekly amount are not entitled to overtime pay. Certain other classes of employees are excluded from the overtime provisions of the Order.

In British Columbia, in an increasing number of minimum wage orders, payment of time and one-half the regular rate is required after 40 hours in a week. The 40-hour standard workweek, after which the overtime rate is to be paid, is now in effect in factories, shops, offices, hotels and catering, laundries, fish processing, construction, the logging, sawmill, woodworking and Christmas-tree industries, hairdressing and in a considerable number of other employments.

In Saskatchewan, the Minimum Wage Board has no authority to fix overtime rates. All overtime pay requirements are laid down in the Labour Standards Act and orders under it. In Manitoba, overtime pay requirements are contained in Part III of the Employment Standards Act. In Ontario, overtime pay is required under the Employment Standards Act and regulations.

Overtime rates fixed under provincial minimum wage orders are shown on page 40.

### **Night Work for Women**

In Quebec, under the Industrial and Commercial Establishments Act, as amended in 1968, women are permitted to work on the night

shift under certain conditions. Previously, women were forbidden to work after midnight.

The Act authorizes the Minister of Labour to grant a permit allowing women 18 and over to work on a third shift in an industrial establishment, if he is satisfied that the nature of production, market conditions and other special circumstances require it. Before ruling on an application for a permit, the Minister must request the opinion of the certified trade union.

Hours of work on the third shift may not exceed eight, and work must not begin before 11 p.m. or after midnight. A lunch break of at least 30 minutes must be allowed around the middle of the shift, and two rest periods of 10 minutes each must be granted in the intervals before and after the refreshment period. Wage rates for the night shift must not be less than those for the two other shifts, and, if premium pay is given for night work, it must be paid to the women employees on the shift.

The employer must ensure the safety of women who leave work before 7 a.m. by providing them with convenient and safe transportation to their homes at his expense.

Regulations made under the Act lay down further conditions. At least one female supervisor, nurse or first aid attendant must be present on the night shift, and there must be at least two women besides the female supervisor in each workroom or workshop. A permit may not be issued for a period longer than a year. It may be revoked without notice for breach of any of the conditions under which it was issued.

In Ontario, no girl under 18 may work in an establishment between midnight and 6 a.m. If the work period of a female employee of 18 or over begins or ends between midnight and 6 a.m., her employer must provide her with private transportation at his expense from her residence to the place of work or from the workplace to her home.

An order under the Alberta Labour Act prohibits the employment of women on shifts which begin or end between midnight and 6 a.m. unless the employer provides free transportation for the employee to or from her place of residence. Any period during which the employee is required to wait on the employer's premises for transportation to her place of residence is to be deemed working hours. The order applies to women employees in cities and towns having a population of over 2,000 and within a five-mile radius, with the exception of those employed in hospitals and nursing homes, other than office staff, and domestic servants in private homes.



Manitoba minimum wage regulations contain a similar provision, requiring employers to provide women employees whose work begins or ends between midnight and 6 a.m. with adequate transportation, without cost to the employee, between the place of residence and the place of employment.

In Saskatchewan, women employees in hotels, restaurants, educational institutions, hospitals and nursing homes who are required or permitted to finish work between 12.30 a.m. and 7 a.m. must be provided by the employer with free transportation to their homes. Nurses, nursing assistants and student technicians are not covered by this provision.

## WEEKLY REST-DAY

The Canada Labour (Standards) Code (Section 7) provides that employees must be given at least one full day of rest in the week, on Sunday wherever possible.

Two exceptions from this general rule are provided for in the regulations. A weekly rest-day does not need to be granted where working hours are averaged over a specified period.

Where working hours in excess of 48 in a week are allowed under a permit from the Minister of Labour, the Minister may specify in the permit that a weekly rest need not be scheduled, as required by the Code, and may prescribe alternative periods of rest.

Nine provinces—Alberta, British Columbia, Manitoba, Newfoundland, New Brunswick, Nova Scotia, Ontario, Quebec and Saskatchewan—provide for a weekly rest-day but the provisions vary in scope.

The Alberta Labour Act requires all employed persons except farm workers and domestic servants to be given a day of rest immediately following each period of not more than six consecutive days of work, unless the Board of Industrial Relations orders that the hours of rest be allowed in two periods or that a longer period than 24 hours be granted. The Act enables the Board to make special provision for days of rest in continuous industries and permits a consecutive rest period to be granted every four weeks or in relation to some other work period which the Board may deem proper. Under this authority the Board has made special provision for accumulated days of rest in the highway construction, geophysical exploration, land surveying, brush clearing, oil well drilling, oil well service and pipeline construction industries and for cooks, night watchmen, etc., in lumber camps.

Orders under the British Columbia Minimum Wage Acts provide for a rest period of 32 hours weekly for workers in factories, shops, offices, hotels and catering, laundries, hospitals, the logging, sawmill, woodworking and Christmas-tree industries, shipbuilding, for first aid attendants, for elevator operators, for men in undertaking establishments, for janitors, for patrolmen, for taxicab drivers and for bicycle-riders and foot-messengers employed exclusively on delivery. The general minimum wage order issued in 1967 also provides for a 32-hour weekly rest. Different arrangements may be made on application of the employer and employees concerned, if the Board approves. An order governing employees in resort hotels in unorganized territory during the summer season provides for a weekly rest of 24 hours.

In Manitoba, a weekly day of rest, if possible Sunday, must be granted to employees in mining, manufacturing, shops, offices, catering, barbering and hairdressing, the insurance business, the baking industry, the transport of goods by road, the processing and distribution of milk and its products and to elevator operators and hotel clerks. Exempted are watchmen, janitors and firemen living in the building in which they are employed; managers and supervisory employees; repair workers in emergencies; and persons employed for not more than three hours on a weekly rest-day merely for the purpose of looking after horses as part of their usual duty. The Minister of Labour is given discretion to exempt a particular undertaking from the application of weekly rest provisions for a fixed period or indefinitely. Where a plant is exempted, each employee must be given an additional holiday without pay for each weekly day of rest to which he would have been entitled except for the permit of exemption, and the holidays may be accumulated.

Under the Newfoundland Weekly Day of Rest Act, to be proclaimed in force, an employer is required to grant his employees a weekly rest period of at least 24 consecutive hours, wherever possible on Sunday. The requirement does not apply to employees employed solely in senior managerial capacities, as defined by the regulations, or to employees engaged in emergency work. Any employer or any class of employers may be exempted by regulations, subject to such conditions as may be prescribed.

The Minister of Labour may grant a permit exempting an employer from compliance with the Act for a period not exceeding 30 days in case of accident, urgent and necessary work to be done to premises or equipment, abnormal pressure of work, or danger of loss of perishables. The Minister may cancel or renew a permit and there is no restriction

on the number of permits or renewals that may be granted to an employer. Where a permit is issued, an employee accumulates a period of holidays equivalent to the missed rest periods, with or without pay, in conformity with the pay provisions applicable to the missed rest periods. The employer must allow the accumulated holidays to be taken within 30 days of the expiry or the renewal of a permit.

The Newfoundland Hours of Work Act, which applies to shops throughout the province, requires shop assistants to be given a day off each week in addition to Sunday, except in the weeks in which eight specified holidays occur. In the weeks in which five other specified holidays occur, they must be given a day off in addition to Sunday and the holiday.

The New Brunswick Minimum Employment Standards Act requires employers to give their employees a weekly rest of at least 24 consecutive hours, to be taken if possible on Sunday. Where a weekly rest is impracticable, the Minister of Labour may permit rest periods to accumulate and to be taken later, either part at a time or all together. The only employees not covered are farm workers, employees required to cope with an emergency and part-time workers who are not usually employed more than five hours in a day. Certain groups of employees may be designated by the Lieutenant Governor in Council as being outside the scope of the Act.

In Nova Scotia, every employer in mining, manufacturing and construction is required to grant his employees a weekly rest of at least 24 hours. Wherever possible, the period of rest must be on Sunday and must be granted simultaneously to the whole of the staff of each undertaking.

In Ontario, in cities of 10,000 or more people, workers in hotels and restaurants must be allowed a weekly rest-day, Sunday if possible. Watchmen, janitors, foremen, and those employed for five hours or less in a day are exempted.

In Quebec, Minimum Wage Order 4, applying generally to all industries within the scope of the Act not covered by special orders, provides for a weekly rest of at least 24 consecutive hours or two periods of 18 consecutive hours each for the employees covered by its provisions. Farm workers, domestic servants and employees covered by decrees under the Collective Agreement Decrees Act are the only workers not within the scope of the Minimum Wage Act. Minimum wage orders governing hotel trade establishments and service establishments

contain the same provision as Order 4. Five other special minimum wage orders provide for a weekly rest of 24 consecutive hours. Under the Quebec Weekly Day of Rest Act, persons employed in hotels, restaurants or clubs in places of at least 3,000 population must have 24 consecutive hours of rest in a week. In the Quebec district, the inspector may permit two periods of 18 consecutive hours each instead of one 24-hour period. Where there is only one cook, the 24-hour rest may be replaced by two 12-hour periods.

The Saskatchewan statute provides for a weekly rest of at least 24 hours, wherever possible on Sunday. Exempted are workers employed in farming, ranching or market gardening, domestic servants, firemen, managerial employees, persons employed in family undertakings and employees who are not usually employed for more than five hours in a day. The Minister of Labour may by permit exempt an employer from compliance with the weekly rest requirement for a specific period not exceeding one year. Any class of employers or employees may be excluded by regulations of the Lieutenant Governor in Council, subject to such conditions as may be prescribed.

## **ANNUAL VACATIONS WITH PAY**

Annual vacations with pay have been provided for by law in the industries subject to federal labour jurisdiction since 1958. The first federal law, the Annual Vacations Act, required employers within its scope to grant their employees paid vacations of one week after one year of employment and two weeks after two years of service. This Act was replaced by Part III of the Canada Labour (Standards) Code, which provides for a vacation with pay of at least two weeks after every completed year of employment. Vacation pay is 4 per cent of wages for the year in which employees establish their claim to a vacation.

A year of employment, under the federal law, must be continuous with one employer, and may be a 12-month period commencing with the day the employee began to work for the employer or any subsequent anniversary of that date, or it may be a calendar year or another year approved by the Minister of Labour.

All provinces have annual vacations legislation. The Newfoundland Act has not yet been proclaimed in effect. The provisions regarding annual vacations with pay are contained in the Alberta Labour Act and in two orders under it (a general order and a special order for the construction industry); in the Ontario Employment Standards Act and



regulations; in Quebec Minimum Wage Orders 3, 7 and 9\*; and in the Saskatchewan Labour Standards Act, Part I, and regulations. British Columbia now provides for annual vacations with pay and public holidays in one statute, the Annual and General Holidays Act. The other five provinces have separate annual vacations laws. Vacation with pay provisions are also contained in most decrees under the Quebec Collective Agreement Decrees Act and the Construction Industry Labour Relations Act†. Some industrial standards schedules make provision for pay in lieu of annual vacations.

The Canada Labour (Standards) Code applies to industries within federal jurisdiction and the only employees excluded are those who are managers or superintendents or who exercise management functions, and members of the medical, dental, architectural, engineering, legal and scientific professions.

The provincial laws govern employees in employment within the jurisdiction of the province, with the exception of the classes of employees noted below. The Newfoundland Act provides for the exemption of employees or classes of employees by order of the Lieutenant Governor in Council. No regulations have yet been made.

Farm workers are excluded in all provinces. In addition, British Columbia excludes persons employed in horticulture; Manitoba and Saskatchewan, in ranching and market gardening. (In Ontario, workers in certain occupations related to farming are covered, e.g., raising of fur-bearing animals, egg grading, greenhouse and nursery operations, the growing of flowers for the retail and wholesale trade, silviculture, tree trimming and surgery. Similarly, in Saskatchewan, the Act applies to egg hatcheries, greenhouses and nurseries, and bush clearing operations.) Domestic servants are exempted in all provinces except Saskat-

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\*The legislation described in this section is Minimum Wage Order 3. Order 9 of the Minimum Wage Commission governing forest operations provides that employees in the industry are entitled to a two weeks' vacation, with pay at the rate of 4 per cent of earnings, after one year's service with the same employer, provided they have worked at least 175 days during the year. On termination of employment, workers with less than a year's service must be paid 2 per cent of their wages as vacation pay. Order 7 governing the shoe industry requires every employer to grant his employees two consecutive weeks of vacation, with vacation pay at 4 per cent of wages, every year. Except for office workers, watchmen and instock employees, the vacation period must be the week including the 13th of July and the following week.

†Provisions for an annual vacation with pay or pay in lieu of a vacation vary in the approximately 100 decrees in effect under the Collective Agreement Decrees Act and the Construction Industry Labour Relations Act and are not dealt with in this publication. The Department of Labour or Minimum Wage Commission has no jurisdiction with respect to the administration and enforcement of the decrees, which are under the supervision of the parity committee concerned.



chewan but in Prince Edward Island the exclusion is limited to domestic servants who are employed for a period of less than two months.

Also excepted are workers employed in lumbering in Nova Scotia, workers employed in commercial fishing in Nova Scotia, Ontario and Prince Edward Island, and workers employed in canneries that operate less than four continuous months in a year in Prince Edward Island.

Professional workers are excluded in British Columbia and Ontario, public school teachers in Prince Edward Island, and members of family undertakings in Saskatchewan. Salesmen paid entirely by commission are excluded in Alberta, Ontario and Quebec. Special categories of salesmen, such as real estate and insurance agents, are also outside the scope of the Alberta and Quebec vacation orders. Part-time workers employed four hours or less in a day or 24 hours or less in a week are not covered in New Brunswick and Prince Edward Island; those regularly working less than three hours in a day are excluded in Quebec; and those employed for eight hours or less in a week are exempted from the Alberta order.

In Quebec, members of the clergy or of a religious institution, persons employed by religious institutions, teachers employed by school commissions, certain classes of students, psychiatric hospital patients who, with the approval of officers of the Department of Health, are assigned to an employer for social rehabilitation purposes, and the husband or wife and children of the employer are not entitled to an annual vacation or vacation pay.

The large group of workers governed by decrees under the Collective Agreement Decrees Act are also outside the scope of the Quebec vacation order (see footnote on page 60). Workers governed by a collective agreement in British Columbia are exempted from the Act if the Minister of Labour approves the vacation provisions of the agreement.

In New Brunswick and Prince Edward Island, the vacation with pay to which a worker is entitled under the law is one week after a year of employment; in Ontario, workers are entitled to a vacation of one week after each of the first three years of employment and to two weeks after the fourth year and each subsequent year; under the Canada Labour (Standards) Code, and in Alberta, British Columbia, Manitoba, Newfoundland, Nova Scotia and Quebec, a vacation of two weeks must be granted after a year of employment.

The Saskatchewan Act provides for an annual paid vacation of two weeks after each of the first four years of service and of three weeks

after the fifth year and each year thereafter. The period of five years of employment with the same employer necessary for an employee to qualify for a three-week vacation may be continuous or may be made up of "accumulated" years, provided that no break in employment exceeds 6 months (182 days).

The length of the vacation period and the vacation pay requirements in the various jurisdictions are shown in the table below:

Province	Length of Annual Vacation	Vacation Pay
Federal	2 weeks	4% of annual earnings
Newfoundland	2 weeks	4% of annual earnings
Prince Edward Island	1 week	2% of annual earnings
Nova Scotia	2 weeks	4% of annual earnings
New Brunswick	1 week	2% of annual earnings
Quebec	2 weeks	4% of annual earnings
Ontario	1 week; 2 weeks after 4 years' service	2% of annual earnings in first three years; 4% of annual earnings after fourth year
Manitoba	2 weeks	Regular pay
Saskatchewan	2 weeks; 3 weeks after 5 years' service	1/26 of annual earnings in first four years; 3/52 of annual earnings after fifth year
Alberta	2 weeks	Regular pay
British Columbia	2 weeks	4% of annual earnings

In Quebec, if a worker has not completed a year's service for the same employer, he is entitled to a continuous vacation of one day for each working month. Similarly, in Saskatchewan, regulations provide that, in order to make the vacation entitlement date of his employees uniform, an employer may grant to an employee with less than a year's service a continuous vacation of one day for each month of employment. The Board of Industrial Relations in Alberta may, in making a

vacation pay order, require an employer to give an employee who has not completed a year of employment a vacation in proportion to the time worked.

Several of the laws specify the working time constituting a year of employment. In British Columbia and New Brunswick, a year's service consists of not less than 225 working days (in New Brunswick, working days or shifts). In Manitoba, an employee is held to have completed a year's service if he has worked not less than 95 per cent of the regular working hours during a continuous 12-month period. In Alberta, Newfoundland, Nova Scotia and Prince Edward Island, the employee must have worked 90 per cent or more of the working time during the year (of the regular working days in the establishment in Alberta and of regular working hours in Newfoundland, Nova Scotia and Prince Edward Island).

Where a worker has worked less than the prescribed working time for a year's continuous service and continues to work for the same employer, he is entitled to an annual vacation on a pro rata basis in Alberta, and to accrued vacation pay for the period worked during the year in British Columbia, Manitoba, New Brunswick and Nova Scotia (at the rate of 4 per cent of earnings in British Columbia, Manitoba and Nova Scotia and at the rate of 2 per cent in New Brunswick). The vacation pay is payable in New Brunswick not later than the next regular pay period after the end of the vacation pay year, and in the other two provinces within a month after the anniversary date of the workman's employment. A worker in the construction industry in Ontario whose employment with his employer extends beyond June 30 (the date fixed for cashing of stamps) must be given vacation stamps on that date equal in value to 2 or 4 per cent of his earnings, as the case may be, during the preceding period of employment.

The employer may determine the time when each of his employees may take the annual vacation to which he is entitled, within certain limits laid down by law. The vacation must be given in New Brunswick not later than 4 months after June 30; in Manitoba and Saskatchewan within 10 months, and in the federal jurisdiction, British Columbia, Nova Scotia, Ontario and Prince Edward Island, not later than 10 months, after the date on which the employee becomes entitled to a vacation; in Quebec within 12 months, and in Alberta not later than 12 months, after the date of entitlement.

An employer in a federal undertaking is required to pay his employees their vacation pay at least one day before the beginning of

the vacation, except in cases where it is the custom of the establishment to pay vacation pay on the regular payday during or immediately following an employee's vacation. Most of the provincial laws also require vacation pay to be paid at least one day before the vacation begins. The Quebec order simply states that vacation pay is to be paid before the employee's departure on vacation. In Saskatchewan, an employer must pay an employee his pay during the 14 days immediately preceding the beginning of the vacation.

The Canada Labour (Standards) Code and five of the provincial laws stipulate that an employee's annual vacation is to be extended by one day in lieu of a public holiday that occurs during the vacation. (In Manitoba, Newfoundland and Saskatchewan, a holiday is defined as a day for which he is entitled to be paid wages without being present at work.) The federal and Saskatchewan laws provide further that for the extra day the employee is to be paid the wages to which he is entitled for the holiday.

Under the federal law and all the provincial laws, workers are entitled to vacation pay on termination of employment during a working year.

Two of the laws provide, however, that a worker must have completed a minimum period of service in order to be entitled to vacation pay on termination of employment. Under the federal Act, an employee must have been continuously employed by the employer for a period of 30 days or more in order to be eligible for vacation pay. In Nova Scotia, the minimum period of service specified is three months.

The vacation pay payable on termination of employment is 4 per cent of the employee's total earnings for the period of his employment under the federal Act and in British Columbia, Newfoundland, Nova Scotia and Quebec; 4 per cent of his regular pay in Alberta and Manitoba; 2 per cent of the employee's total earnings for the period of his employment where the employee has completed less than 36 months of employment and 4 per cent where the employee has completed 36 or more months of employment in Ontario;  $1/26$  or  $3/52$  of total earnings, depending on the year of employment, in Saskatchewan; and 2 per cent of total earnings in New Brunswick and Prince Edward Island.

In Nova Scotia and Ontario, a stamp system is used for the payment of vacation pay in the construction industry. In Ontario, workers must be given vacation stamps when employment with an employer ends. The employer is required to affix stamps equivalent in value to 2 or 4 per cent of the worker's earnings, as the case may be, and to return



the book within 10 days after the worker who has ceased to be employed presents it. In Nova Scotia, the employer must furnish each hourly paid employee with a stamp book, if he does not have a current one, and place in it stamps equivalent to 4 per cent of the employee's earnings within three days after each payday. Stamps may be exchanged for their cash value at a savings bank at any time after the anniversary date of the worker's employment in Nova Scotia, and after June 30 in each year in Ontario. The stamp system in Ontario is to be phased out between January 1 and June 30, 1970.

In Alberta, employers in the construction industry must give each employee (except office staff) vacation credits at the end of each regular pay period. The vacation credits (4 per cent of the employee's regular earnings) are to be recorded in the employer's payroll. The employee must be given the amount of money equivalent to his accrued vacation credits on December 31 or on termination of employment. If he is entitled to an annual vacation, he must be paid his vacation pay the day before his vacation commences.

## **PUBLIC HOLIDAYS**

### **FEDERAL**

Under the Canada Labour (Standards) Code, Part IV, eight public holidays in a year are to be observed as paid holidays.

An employee employed in an industry to which the Code applies is entitled to a holiday with pay on each of the following general holidays: New Year's Day, Good Friday, Victoria Day, Dominion Day, Labour Day, Thanksgiving Day, Remembrance Day and Christmas Day. The Code provides also that, under certain conditions, an alternative holiday may be substituted for any of the eight holidays specified.

Should a holiday occur on a day on which an employee does not normally work, he must be granted a day off with pay in lieu of the holiday, either at a time convenient to him and his employer or by the addition of a day to his annual vacation.

If Christmas, New Year's Day or Dominion Day falls on a Saturday or Sunday that is a non-working day for an employee, he must be given a holiday with pay on the working day immediately before or after the general holiday. These provisions regarding alternative days off do not apply, however, to employees covered by a collective agreement that entitles them to at least eight paid holidays a year.

The Code lays down the general principle that an employee in a federal undertaking who does not work on a holiday is entitled to his



regular pay for the day. If he is paid by the week or month, his wages must not be reduced by reason of his not working on a holiday. If he is paid on any other basis, he must receive the equivalent of a normal day's pay.

An employee in a federal undertaking who is required to work on a general holiday (other than one employed in a "continuous operation") is entitled to his regular wages for the day and, in addition, to time and one-half his regular rate for all time worked. In effect, he is paid two and one-half times his usual rate.

An employee employed in a "continuous operation" (defined to include employment concerned with the operation of trains, planes, ships, trucks and other vehicles, telephone, radio, television and telegraph services, or any other service normally carried on without regard to Sundays or holidays) who is required to work on a holiday *either* must be paid his regular wages for the day, plus time and one-half his regular rate for all time worked *or*, in addition to his regular pay for the day, must be granted a holiday with pay at some other time, either a day added to his annual vacation or another day convenient to him and his employer.

There are some situations in which an employee is not entitled to holiday pay. An employee is not entitled to pay for a general holiday that occurs in his first 30 days of employment with an employer, but if he is required to work on a holiday he must be paid time and one-half his regular rate. If he is employed in a continuous operation, he may be paid at his regular rate for work done on a holiday.

A further exception is that an employee is not entitled to pay for a general holiday on which he does not work if he is not entitled to wages for at least 15 days during the 30 calendar days immediately preceding the holiday.

An employee in a continuous operation is not entitled to pay for a general holiday if he did not report for work in response to a call from the employer.

Special regulations for longshoremen provide that a longshoreman employed by an employer who is a member of a "multi-employer unit" is entitled to holiday pay if he is entitled to wages for at least 15 days or 120 hours in the 30 calendar days immediately preceding a general holiday. Pay for the holiday may not be less than eight times the employee's basic hourly wage rate.

A longshoreman employed by an employer who is not a member of a "multi-employer unit" must be paid, on each payday, in lieu of

general holidays, an amount equal to 3 per cent of his basic wage rate multiplied by the number of hours he has worked for the employer in the pay period.

An employee who is required to work on a general holiday is to be paid at not less than one and one-half times his basic rate of wages for the time worked by him on that day.

## PROVINCIAL

Six provinces—Alberta, British Columbia, Manitoba, Nova Scotia, Ontario and Saskatchewan—have enacted legislation of general application dealing with public holidays. Three provinces (Saskatchewan, British Columbia and Alberta) have legislation similar in principle to the federal holiday provisions, and three (Manitoba, Ontario and Nova Scotia) have regulated pay for work on public holidays.

### SASKATCHEWAN

In Saskatchewan, a minimum wage order requires employees who do not work on any of eight public holidays to be paid their regular pay. For workers in the construction industry and in logging and lumbering the order provides for payment of a lump sum in lieu of pay for the eight listed holidays. The eight holidays are New Year's Day, Good Friday, Victoria Day, Dominion Day, Labour Day, Thanksgiving Day, Remembrance Day and Christmas Day.

When Christmas or New Year's Day falls on Sunday, the following Monday is to be observed as a holiday. When the Monday following Remembrance Day is declared a holiday, it is to be observed as a holiday under the order. By agreement between an employer and a trade union representing a majority of the employees in an appropriate bargaining unit, another working day may be substituted for any of the eight listed holidays. Where workers are not represented by a trade union, the Minister of Labour may by order permit a similar substitution, if he is satisfied that the employer and a majority of the employees are in favour of the change.

The order applies to all employees except nurses, student nurses, nursing assistants and technicians; resident janitors or caretakers; employees to whom the Fire Departments Platoon Act applies; employees of a rural municipality employed solely on road maintenance; and persons employed in a managerial capacity.

If required to work on a holiday, employees in almost all workplaces must receive, in addition to their regular pay for the holiday,

time and one-half the regular rate for every hour or part of an hour worked, in effect, two and one-half times their regular pay.

A major exception to the above rule is that workers in hotels, restaurants, hospitals, nursing homes and educational institutions who are required to work on a holiday must be paid, in addition to their regular pay, wages at the regular rate, or they may be given time off equivalent to the hours worked on the holiday at regular rates within four weeks.

Persons engaged in the operation of a well-drilling rig are required to be paid at their regular rate of wages, plus their normal pay for the day, for work performed on a holiday.

The order provides that, where an employee's wages, exclusive of overtime, vary from day to day, pay for a public holiday is to be calculated on the basis of his average daily wage, exclusive of overtime, for the four immediately preceding days that bear the same name as the day on which the holiday occurs.

Workers in the construction industry who do not work on any of the eight specified holidays must be given holiday pay in a lump sum in an amount equal to 3 per cent of their gross wages for the calendar year, exclusive of overtime. Payment must be made on December 31 or on termination of employment, whichever occurs first.

Workers who work on the holidays must be paid, in addition to the lump sum payment, wages at the rate of time and one-half their regular rate for all time worked. The latter amount must be paid in the pay period in which it is earned.

Workers in the logging and lumbering industries must also be given a lump sum payment equal to 3 per cent of their gross wages, exclusive of overtime. The provisions applicable to these workers are the same as those governing construction workers, with one exception. Workers in logging and lumbering who work on a public holiday must be paid regular pay (rather than time and one-half the regular rate) for all time worked, in addition to the lump sum payment to which they are entitled.

Construction workers and workers employed in logging and lumbering who are represented by a trade union have an option as to payment for public holidays not worked. Where a majority of the employees in an appropriate bargaining unit are represented by a trade union, the union and the employer may, by agreement in writing, elect that the workers be paid regular wages for each holiday, instead of a lump sum payment.

## ALBERTA

In Alberta, a general holiday order requires employers to give their employees five paid holidays a year—New Year's Day, Good Friday, Dominion Day, Labour Day and Christmas Day.

The rule is that, if one of the five "general holidays" falls on a regular working day for the employee and he does not work on that day, he is entitled to his regular wages for the day.

If the employee is hired by the week or month, his wages must not be reduced by reason of his not working on the holiday. If he is paid on a daily or hourly basis, he must be paid at least the equivalent of the wages he would have earned for his normal hours of work. If his wages are calculated on other than an hourly, daily, weekly or monthly basis, he must receive the equivalent of his average daily earnings, exclusive of overtime, for the four weeks he worked immediately preceding the week in which the holiday occurred.

Where an employee is required to work on a general holiday, he must be paid his regular pay for the day and, in addition, his normal wages for all time worked, or he must be given a holiday with pay at some other time not later than his next annual vacation or on termination of employment, whichever occurs first.

An employee is not entitled to a holiday with pay if he has not worked for his employer for at least 30 days in the preceding 12 months; or if he does not work on the holiday when he has been required or scheduled to do so; or if he is absent without the employer's consent on either of the working days immediately preceding or following the holiday. If such an employee works on a general holiday, he must be paid at least his normal wages for all time worked.

If an employee is not required to work on a general holiday, he must not be required to work on another day of that week that would otherwise be a day of rest, unless he is paid his normal wages for the day, in addition to all other wages due him.

The order does not apply where, by agreement, contract of service or custom, an employee receives at least an equivalent sum in respect of general holidays, in addition to any wages earned on such days.

Construction workers in Alberta, with the exception of office staff, must be given holiday pay in a lump sum in lieu of being given a holiday with pay on each of the five general holidays.

An employer in any branch of the construction industry is required to pay each of his employees a sum equal to 2 per cent of his regular



pay for the period of his employment or the period since he was last paid such sum, whichever is shorter. Pay in lieu of holidays must be given on December 31 of each year or on termination of employment, whichever occurs first.

#### BRITISH COLUMBIA

In British Columbia, an order made under the Annual and General Holidays Act provides for eight paid general holidays a year, the same holidays as those provided for in the federal and Saskatchewan legislation. Another day may be substituted for any of the listed holidays.

The order does not apply to employees covered by a collective agreement under the Labour Relations Act. Also excluded are farm workers, horticultural workers, domestic servants, professional employees and trainees, salesmen of automobiles and other vehicles, mobile homes and heavy duty industrial equipment, and employees exempted by regulation from the Minimum Wage Acts (e.g., commercial travellers, employees of the Pacific Great Eastern Railway, handicapped employees and supervisory, managerial and confidential employees).

An employee who is not required to work on a general holiday that would otherwise be a working day must be paid his regular pay for the day. If he is paid by the week or month, his wages must not be reduced by reason of his not working on a holiday. If he is paid on any other basis, he must receive the equivalent of a normal day's pay.

Where an employee's working hours vary from day to day, or where his wages are not calculated on a time basis, his pay for a general holiday is to be deemed to be the average of his daily earnings, exclusive of overtime, for the days he has worked in the four-week period immediately preceding the week in which the holiday occurs.

If a holiday falls on a day that is a non-working day for the employee, he must be given a holiday with pay at some other time not later than his next annual vacation, or the day on which he is required to be paid vacation pay where he has not earned an annual vacation, or on termination of employment, whichever occurs first.

As in Alberta, an employee who is not required to work on a general holiday must not be required to work on another day of that week that would otherwise be a day of rest, unless he is paid at his regular rate for all hours worked, in addition to all other wages due him.



With regard to pay for work performed on a general holiday, the order distinguishes, as does the Canada Labour (Standards) Code, between employees employed in a "continuous operation" and other employees. A "continuous operation" is defined as an operation or service normally carried on without regard to Sundays or public holidays.

The general rule is that, where an employee is required to work on a holiday, he must be paid not less than time and one-half his regular rate of pay for all hours worked and, in addition, must be given a holiday with pay at some other time not later than his next annual vacation or the day on which he is required to be paid his accrued vacation pay, or on termination of employment, whichever occurs first.

Where an employee employed in a "continuous operation" is required to work on a holiday, he must, in addition to his regular rate of pay for the day, either be paid not less than time and one-half his regular rate for all hours worked or be given a holiday with pay at some other time (as above).

For purposes of these provisions, an employee's "regular rate" is to be deemed to be the average of his hourly earnings, exclusive of overtime, for the hours he has worked in the four-week period immediately preceding the week in which the holiday occurs.

An employee is not entitled to pay for a general holiday that occurs in his first 30 days of employment. An employee is also excluded from holiday benefits if he has not earned wages for at least 15 days during the 30 calendar days immediately preceding the holiday.

Where certain employees of an employer are bound by a collective agreement, and other employees of the same employer are entitled to the general holidays provided for in the order, the employer may, with the approval of the Board of Industrial Relations, substitute a holiday specified in the agreement for a general holiday under the order, so that all his employees will be entitled to a holiday on the same day.

#### MANITOBA

The Manitoba provisions, which are contained in the Employment Standards Act, prohibit work on specified public holidays unless an overtime rate is paid.

In all employment except farming, subject to the exceptions noted below, workers are entitled to time and one-half their regular rate if required to work on seven "general holidays" — New Year's Day, Good Friday, Victoria Day, Dominion Day, Labour Day, Thanksgiving Day and Christmas Day.

For workers employed in a continuously operating plant, a seasonal industry, a place of amusement, a gasoline service station, a hospital, a hotel or a restaurant, or in domestic service, compensatory time off with pay may be substituted. Domestic servants may be granted two half days off in lieu of a holiday. The compensatory time off must be given within 30 days of the holiday, or at a later date fixed at the request of the employee.

A special Act in Manitoba deals with the observance of Remembrance Day. Except in farming and certain essential services, work may not be performed except by permit from the Minister of Labour. Overtime provisions are not applicable on Remembrance Day. Any employee, other than a watchman, furnace tender or janitor, who is required to work and who is paid at his regular rate of pay must be granted equivalent compensatory time off, without loss of pay, within 30 days.

#### ONTARIO

The Ontario Employment Standards Act requires payment of overtime pay for work done on seven public holidays. The holidays are New Year's Day, Good Friday, Victoria Day, Dominion Day, Labour Day, Thanksgiving Day and Christmas Day. Where an employee works on any of these holidays, he must be paid not less than one and one-half times his regular rate. If New Year's Day, Dominion Day or Christmas Day falls on a Sunday, the following day is to be considered a holiday for purposes of overtime pay.

There are two situations in which employees are not entitled to the overtime rate for work on a holiday.

Overtime pay does not have to be paid for work on one of the specified holidays to an employee who has not earned wages for at least 12 of the 30 calendar days preceding the holiday, or to an employee who, in the opinion of the Director of Employment Standards, is guaranteed more favourable benefits in respect of work performed on a holiday under an agreement or arrangement with his employer.

Taxi drivers, ambulance drivers and helpers, and seasonal employees in the hotel, motel, tourist resort, restaurant and tavern industry (who do not work more than 16 weeks in a year and are provided with room and board) are not entitled to overtime pay for work done on any of the specified holidays.

#### NOVA SCOTIA

In Nova Scotia, the general minimum wage order provides that, if an employee is required to work on a holiday which is not a regular

working day for that employee, the employer must either pay him at the rate of time and one-half the minimum rate, or grant him time off equivalent to one and one-half hours for every hour worked on the holiday. The same conditions are laid down for workers in road building and heavy construction and for workers in beauty parlours. "Holiday" is not defined in the orders but as defined in the provincial Interpretation Act covers nine holidays.

Employees in a motel, hotel, restaurant, tourist resort or hospital may be paid the regular straight-time rate for work done on a holiday.

### **Other Legislation Dealing with Holidays**

Provisions in the minimum wage orders of Manitoba deal with the question of pay for public holidays to the extent of prohibiting deductions from the minimum wage for time not worked on a holiday.

Workers are protected against a reduction in the minimum wage for time not worked on a general holiday (as listed above) which falls on a regular working day. Where an employee does not work on a holiday but does work the regularly scheduled hours on all the other working days in the week, it is to be presumed, for the purpose of determining the minimum amount of wages to be paid to the employee for that week, that he worked regular hours on the holiday. An employee does not lose the benefits of this provision through being absent on either the day before or the day after the holiday because of established illness or with the employer's consent.

Under the Municipal Act of British Columbia, shops in all municipalities must be closed on Christmas Day and the day immediately following, New Year's Day, Good Friday, Dominion Day, Victoria Day, Labour Day, Remembrance Day, the Queen's birthday, Thanksgiving Day and any day designated as a provincial or municipal holiday. There is also legislation in Newfoundland requiring shops to be closed on 12 specified public holidays and on one additional holiday fixed by the municipality.

The Quebec Commercial Establishments Business Hours Act, which went into force on January 1, 1970, requires shops to remain closed on New Year's Day, Easter Monday, St. Jean Baptiste Day or the day following if June 24 is a Sunday, Dominion Day or the day following if July 1 is a Sunday, Labour Day, Thanksgiving Day, Christmas Day or any other day fixed by proclamation of the Lieutenant Governor in Council. Shops must not open before 1 p.m. on Boxing Day or on January 2.

Provisions prohibiting work on specified public holidays except with a permit, stipulating that certain holidays must be observed as paid holidays, or requiring the payment of an overtime rate for work done on specified holidays are regular features of the decrees under the Quebec Construction Industry Labour Relations Act and Collective Agreement Decrees Act and of industrial standards schedules in Alberta, Newfoundland, New Brunswick, Nova Scotia, Ontario, Prince Edward Island and Saskatchewan. These provisions, while regulating a considerable portion of industry, particularly in Quebec, apply only to certain trades and areas in the province concerned. They are not dealt with in this publication.

## FAIR EMPLOYMENT PRACTICES

Fair employment practices Acts prohibiting discrimination in hiring and conditions of employment and in trade union membership on grounds of race, colour, religion or national origin have been enacted in all Canadian jurisdictions.

The Canada Fair Employment Practices Act applies to employment in industries within the legislative jurisdiction of the Parliament of Canada, and covers all employers within that jurisdiction, with two exceptions: (1) employers who employ fewer than five employees, and (2) nonprofit charitable, philanthropic, educational, fraternal, religious or social organizations or organizations operated primarily to foster the welfare of a religious or racial group.

Similar laws are in force in all provinces but Newfoundland. The Newfoundland Human Rights Code, enacted in 1969, will be proclaimed in effect. Manitoba, Quebec and Saskatchewan have separate fair employment practices Acts. Fair employment practices provisions form part of the Human Rights Acts of Alberta, British Columbia, New Brunswick and Nova Scotia, and of the Human Rights Codes of Newfoundland, Ontario and Prince Edward Island.

In addition to prohibiting discrimination in employment and trade union membership on grounds of race, colour, religion or national origin, the British Columbia, Newfoundland and Quebec Acts forbid discrimination in these areas on grounds of sex. The British Columbia and Newfoundland Acts provide, however, that discrimination because of sex, where based on a *bona fide* occupational qualification, is not a violation of the Act. The Quebec Act states that any distinction, exclusion or preference based on the inherent requirements of a particular job is not to be considered discrimination. The Quebec legislation



forbidding discrimination in employment on the basis of sex is not supplemented by equal pay legislation. Quebec is the only province which has not enacted an equal pay law.

Three provinces—British Columbia, Newfoundland and Ontario—make it unlawful to discriminate in employment and trade union membership on grounds of age. The British Columbia Human Rights Act and the Newfoundland Human Rights Code forbid discrimination on grounds of age against persons between the ages of 45 and 65. In Ontario, a separate Act, the Age Discrimination Act, prohibits discrimination against persons between the ages of 40 and 65 because of their age, including job advertising that would limit the employment opportunities of such persons.

In Newfoundland, discrimination is forbidden in employment and trade union membership, and in all other areas covered by the Human Rights Code, on grounds of political opinion.

Each of the provincial Acts covers most employers within the jurisdiction of the province. In Manitoba and Quebec, as under the federal Act, employers with fewer than five employees are exempted. The Acts do not apply to domestic service in private homes. In Nova Scotia, however, domestic servants are excluded only if they are employed and living in a single family home.

Eight of the provincial Acts exclude nonprofit charitable, philanthropic, fraternal, religious or social organizations and organizations that are operated primarily to foster the welfare of a religious or racial group and that are not operated for private profit. In Ontario, such organizations are covered by the Act *except* in any case where race, colour, creed, nationality, ancestry or place of origin is a reasonable occupational qualification. In Nova Scotia, only exclusively religious or ethnic nonprofit organizations operated primarily to foster the welfare of a religious or ethnic group are excluded.

Educational institutions are excluded in Alberta, British Columbia, Manitoba, Newfoundland, New Brunswick, Prince Edward Island and Quebec, but certain exceptions are provided for in British Columbia and Newfoundland. In British Columbia, schools operating under the Public Schools Act are not exempted. The Newfoundland Human Rights Code expressly states that its provisions are not prejudicially to affect the denominational education system of the province. Various legally recognized educational bodies and certain educational officials are excluded. In Ontario, educational institutions are covered by the Act, unless in any case race, colour, creed, nationality, ancestry or place



of origin is a reasonable occupational qualification. In Saskatchewan, educational institutions are also covered but the right of a school or board of trustees to hire persons of a particular religion where religious instruction forms or can form part of the instruction provided is recognized.

The Quebec Act exempts the directors or officers of a corporation, managers, superintendents, foremen and persons who represent the employer in his relations with his employees. In Newfoundland, any legislation or agreement giving preference to Newfoundland workmen, material or equipment is not to be affected by any provision of the Human Rights Code.

In all provinces except British Columbia, the prohibitions of the Act apply to the provincial Government in the same way as to private employers.

All the Acts forbid discrimination on grounds of race, colour, religion and national origin but these prohibitions are expressed in somewhat different terms. The Newfoundland, Prince Edward Island and Saskatchewan Acts include "religious creed" as well as "religion". In place of "religion", the Ontario Act specifies "creed" and the Alberta Act specifies "religious beliefs". The Nova Scotia Act refers to both "religion" and "creed". "National origin" is defined in the Manitoba Act to include ancestry, and in the federal and New Brunswick Acts to include nationality and ancestry. Discrimination is forbidden on the basis of "ancestry or place of origin" in Alberta; "nationality, ancestry or place of origin" in British Columbia and Ontario; "ethnic or national origin" in Nova Scotia, Prince Edward Island and Saskatchewan; "ethnic, national or social origin" in Newfoundland; and "national extraction or social origin" in Quebec.

The Quebec Act defines "discrimination" as "any distinction, exclusion or preference made on the basis of race, colour, sex, religion, national extraction or social origin, which has the effect of nullifying or impairing equality of opportunity or treatment in employment or occupation".

On any of the above-mentioned grounds an employer is forbidden to refuse to employ or to discharge or to discriminate in any other way against any person in regard to employment or any term or condition of employment.

The Acts contain further prohibitions regarding the publication of advertisements, the use of application forms and the making of inquiries, in connection with the hiring of an employee by an employer,

which express or imply discrimination on any of the forbidden grounds, including age in British Columbia and political opinion in British Columbia and Newfoundland, or which require an applicant to furnish information as to his race, colour, religion or national origin.

Under most of the Acts a refusal to employ, or a limitation, specification or preference as to race, colour, religion or national origin which is based upon "a *bona fide* occupational qualification" is permitted. A provision to this effect is contained in the federal, Alberta, British Columbia, Manitoba, Newfoundland, New Brunswick and Saskatchewan Acts. Similarly, the Quebec law states that any distinction, exclusion or preference based on the inherent requirements of a particular job is not to be considered discrimination.

With regard to age discrimination, certain exceptions are permitted. The prohibitions of the British Columbia and Newfoundland Acts do not apply to the termination of employment because of the terms or conditions of any *bona fide* retirement or pension plan; the operation of the terms or conditions of any *bona fide* retirement or pension plan which have the effect of a minimum service requirement; or the operation of the terms or conditions of any *bona fide* group or employee insurance plan.

The Ontario legislation is not to affect the operation of any *bona fide* retirement or pension plan or the terms or conditions of any *bona fide* group or employee insurance plan. The Ontario Human Rights Commission may, with the approval of the Lieutenant Governor in Council, exempt designated occupations from the Act.

The prohibitions noted above are applicable to employment agencies as well as to employers, and the federal, Manitoba, Newfoundland, Prince Edward Island and Saskatchewan Acts forbid an employer to use an employment agency that practises discrimination against persons seeking employment. In the New Brunswick and Nova Scotia Acts, the employment agency is specifically forbidden to discriminate against any person seeking employment.

Trade unions (in Quebec, associations of employees; in Nova Scotia, employees' organizations) are forbidden to exclude any person from membership, to expel or suspend any of their members, or to discriminate in any other way against a member or other person. The Alberta and Quebec laws also forbid employers' associations to discriminate in admitting, suspending or expelling a member.

In the federal jurisdiction and in all provinces except Quebec, employers and trade unions may not discharge or otherwise discriminate against any person for making a complaint under the Act.

In all jurisdictions except Nova Scotia and Saskatchewan, fair employment practices legislation is administered by the Minister of Labour. The Saskatchewan Fair Employment Practices Act is administered by the Department of the Attorney General. Administration of the Nova Scotia Human Rights Act was transferred from the Department of Labour to the Nova Scotia Human Rights Commission in 1969. The Act does not specify the Minister to whom the Commission is to be responsible. Administrative functions under the Act are performed by a Director of Human Rights, who is the Chief Executive Officer and a member of the Commission.

Subject to the direction of the Minister, the federal, Manitoba, Newfoundland and Saskatchewan Acts are administered by a Director; the Alberta Act by an Administrator; and the New Brunswick and Ontario Acts by a Human Rights Commission. The British Columbia Act provides for administration by a Director, subject to the Minister, and for a permanent Human Rights Commission to investigate complaints and to issue binding orders. The Minister of Labour and Manpower Resources is charged with the administration of the Prince Edward Island Act. The Minimum Wage Commission is the administering agency in Quebec.

The provisions for enforcement of the fair employment practices provisions are similar to those laid down in most of the equal pay laws. Action in all cases is initiated by the filing of a written complaint. The Nova Scotia Human Rights Act provides, in addition, for the investigation of a case where the Human Rights Commission "has reasonable grounds for believing that a complaint exists".

The Acts provide first for an informal investigation into a complaint by an officer who is directed to "endeavour to effect a settlement". In all jurisdictions except Prince Edward Island, there is provision for a more formal inquiry, including a hearing, by a commission or board of inquiry, where a complaint is not settled at the earlier stage.

The commission that may be set up in the federal jurisdiction and in most provinces is an *ad hoc* body appointed by the Minister, consisting of one or more persons. It is referred to as an industrial inquiry commission (federal and Manitoba Acts); a board of inquiry (Alberta, New Brunswick, Nova Scotia and Ontario); a commission (Saskatchewan); and a Human Rights Commission (Newfoundland). Under the Nova Scotia Act, the Minister is required to appoint a board of inquiry, unless the Governor in Council otherwise orders.

In British Columbia, if no settlement is reached, the Director may refer the complaint to the Human Rights Commission, a permanent body established under the Act. In Quebec, the Minimum Wage Commission, one of its members or a person appointed by it may investigate the matter further. The Commission must report on the inquiry to the Minister of Labour and Manpower. In Prince Edward Island, the Minister is required to make a full inquiry, to decide the course of action that ought to be taken and to issue an order to this effect.

Under the federal law and the laws of eight provinces (all except British Columbia and Quebec), upon receipt of the board's or commission's recommendations, the Minister may issue an order to put them into effect. In New Brunswick, Nova Scotia and Ontario, the Minister acts on the recommendation of the Human Rights Commission. Failure to comply with an order is an offence under the Act. In New Brunswick, the Human Rights Commission, in addition, is authorized to issue an order that must be complied with.

The Manitoba and Newfoundland Acts provide a right of appeal (to a judge of the Court of Queen's Bench and a judge of the Supreme Court, respectively) from the Minister's order. In Alberta, where a board of inquiry has found a complaint to be justified, the person against whom the finding was made may lodge an appeal in the district court.

In British Columbia, if the Human Rights Commission decides that the Act has been contravened, it must make an order directing the person named in the complaint to cease the contravention, and may order the person to take remedial action. Such an order is final and may be enforced by filing a copy in the Supreme Court.

Prosecution under the Acts, for which the consent of the Minister is required (except in British Columbia), may result in a fine.

In British Columbia, the Director—and in Newfoundland, New Brunswick, Nova Scotia, Ontario and Prince Edward Island, the Minister—is authorized to seek an injunction prohibiting a person who has been convicted of a violation of the Act from continuing the violation.

The Acts place a duty on the Administrator in Alberta, on the Director in British Columbia and Newfoundland, on the Human Rights Commission in New Brunswick, Nova Scotia and Ontario, and on the Minister in Prince Edward Island, to forward the principles underlying the Act and to develop and conduct educational programs designed to eliminate discriminatory practices.



Authority is given to the Minister in the federal, Manitoba, Newfoundland and Saskatchewan Acts and to the Governor in Council in the Nova Scotia Act to undertake or cause to be undertaken "such inquiries and other measures" as appear advisable to promote the purposes of the Act.

The Nova Scotia Human Rights Commission may approve programs of government, private organizations or persons designed to promote the welfare of any class of individuals, and any approved program is to be deemed not to be a violation of the prohibitions of the Act.

## NOTICE OF TERMINATION OF EMPLOYMENT

Five provinces, Manitoba, Newfoundland, Nova Scotia, Quebec and Saskatchewan, have legislation requiring an employer or employee to give notice of termination of employment. The legislation is contained in Part III of the Employment Standards Act in Manitoba, in the Minimum Wage Act of Nova Scotia, in Part IV of the Labour Standards Act in Saskatchewan, and in the Civil Code in Quebec. Newfoundland has a separate Act, the Employment (Notice of Termination) Act, 1969, which is to be proclaimed in force.

In Manitoba, an employer or employee in any work or occupation except farming must give notice of termination of employment and, except in the case of a person paid less frequently than once a month, the period of notice required is one regular pay period. If employees are paid less often than once a month, reasonable notice must be given. Notice of termination is not required if an employee is hired for a fixed period.

The requirements for giving notice do not apply if a general custom or practice prevails in an industry which is contrary to the terms of the Act or where different conditions concerning notice are established by collective agreement. If employment is terminated during an employee's first two weeks in a job, notice is not required unless the employer and employee have agreed in writing that the requirements of the Act will apply.

An employer is permitted to establish a practice whereby employment may be terminated with a shorter period of notice than that provided for in the Act, and the practice is considered to have been established one month after he has notified each of his employees in writing of the practice and has posted a notice setting out the terms of



the practice. Each new employee must be informed of the practice by written notice at the time employment begins.

Complaints of failure to give the required notice may be made in writing to the Minister of Labour within a period of 90 days after employment is terminated. A procedure is laid down in the Act for the settlement of such complaints.

In Saskatchewan, an employer is forbidden to discharge (unless for just cause other than shortage of work) or lay off an employee who has been in his service continuously for three months or more without giving him at least one week's written notice. "Lay-off" is defined as the temporary termination of an employee's services for a period of more than six consecutive days.

An employee who has been given written notice is entitled, in respect of the period of notice, to his actual earnings during the week or his normal wages for one week, exclusive of overtime, whichever amount is greater. If notice is not given, the employee is entitled to his normal wages for one week, exclusive of overtime. Where an employee's wages vary from week to week, his normal weekly wage is to be obtained by averaging his earnings, exclusive of overtime, for the four-week period immediately preceding the date on which notice was given or, if no notice was given, the date of discharge or lay-off.

The requirement to give notice applies to all employees except those employed in farming, ranching or market gardening, employees employed in family undertakings and those whose services are entirely of a managerial character.

In Nova Scotia, as in Saskatchewan, an employer is required to give an employee with three months' continuous service or more at least one week's written notice of termination of employment or lay-off. The provisions in these two provinces are the same so far as the employer's obligation is concerned. The Nova Scotia Act also requires an employee with three months' service or more to give his employer at least one week's notice of his intention to terminate his employment. The Act applies to all employees except farm labourers and domestic servants.

When employment is terminated for any reason or after any period of employment, the employer is required to pay all wages owing within ten days of termination.

The Nova Scotia provisions regarding notice of termination of employment do not apply where another period of notice or another time of payment of wages is provided for in a written contract of employment between an employer and an employee or in a collective

agreement between the employer and a trade union of which the employee is a member.

In Newfoundland, both the employer and the employee are required to give notice of termination of employment. Where an employee is paid once a month or more often, the required period of notice is one regular pay period. Where the employee is paid less often, reasonable notice must be given. In lieu of notice, an employer may pay an employee the normal wages, exclusive of overtime, that he would have earned during the period of notice.

Notice of termination is not required during the first month of a probationary period established by mutual arrangement, or where the employee is hired for a fixed period or for the performance of specified work, unless by mutual agreement the work is continued after the end of the period or the completion of the work.

The requirements of the Act regarding the period of notice do not apply where a different period is established in a collective agreement, or in a written agreement of employment between the employer and employee, if the notice period is of equal length for both parties. Further, a well established general custom or practice in any industry respecting the period of notice may be continued, in lieu of the period of notice provided for in the Act.

All employers and employees within the jurisdiction of the province are covered by the Act. Regulations may be made exempting any industry or class of persons from coverage.

In Quebec, Section 1668 of the Civil Code requires a domestic servant, journeyman or labourer engaged by the week, month or year to give one week's notice of termination of employment if hired by the week, two weeks' notice if by the month, and a month's notice if by the year. The employer must give similar notice where an employee's service are no longer required. In lieu of notice, the employer may pay the employee the wages he would have earned during the notice period.

Some decrees under the Quebec Collective Agreement Decrees Act require the giving of notice of termination of employment.

## MATERNITY PROTECTION

Legislation to ensure protection of the health and job security of women workers before and after childbirth is in force in British Columbia and New Brunswick.

British Columbia has a special law on the subject, the Maternity Protection Act, 1966. The New Brunswick provisions are Sections 11-13 of the Minimum Employment Standards Act, 1964, a law which regulates various conditions of employment.

These laws, which cover all types of employment except those carried on in a private home or on a farm (and in British Columbia horticultural operations), provide for 12 weeks' maternity leave, six weeks before and six weeks after childbirth, the postnatal leave being compulsory. The right to maternity leave is supplemented by a guarantee that a woman will not lose her employment, for reasons arising from her absence on maternity leave, for a period of 16 weeks.

Under both Acts, a woman is entitled to leave her work for a period of up to six weeks preceding her confinement, upon production of a medical certificate showing the presumed date of confinement.

Both Acts provide for six weeks' compulsory leave after childbirth or a longer period in certain circumstances. The New Brunswick Act forbids an employer to employ an employee for six weeks following childbirth or, on production of a medical certificate, during a longer period. In British Columbia, upon receipt of a medical certificate stating the date of delivery, the employer is forbidden to allow the employee to work for six weeks following that date, or during the period recommended in the certificate, if longer.

Both Acts provide protection against dismissal for a period of up to 16 weeks, forbidding an employer to give notice of dismissal (and in British Columbia to dismiss an employee) for reasons arising out of absence on maternity leave during that period.

Laws in Alberta and Ontario give authority to the Board of Industrial Relations and the Lieutenant Governor in Council, respectively, to deal with the matter of maternity protection by regulations.

Under a provision of the Alberta Labour Act, enacted in 1947, the Board of Industrial Relations has authority to regulate and prohibit the employment of women during and following pregnancy. The Board has not exercised this authority.

The Ontario Industrial Safety Act, 1964, which provides for the making of regulations on a wide variety of matters to ensure the safety and health of persons employed in industrial establishments, authorizes the making of regulations to regulate the employment of pregnant women in factories and shops. No such regulations have been issued.

## WORKMEN'S COMPENSATION

All provinces have a workmen's compensation law of the "collective liability" type.

In each province a Workmen's Compensation Act applicable to most industries and occupations provides for the payment of compensation to a workman or his dependants in case of accident or industrial disease arising out of and in the course of employment. The only exceptions are (1) where the workman is disabled for less than a stated number of days, or (2) where the injury is attributable solely to his serious and wilful misconduct and does not result in death or serious disablement.

Compensation is payable by employers collectively. Compensation, medical expenses and other benefits are paid from a provincial Accident Fund built up by annual assessments, in the form of a percentage of payroll, levied on employers covered by the Act. For assessment purposes, industries are classified according to their hazard and each class is liable for the cost of accidents occurring in that class. No contributions from employees are permitted.

The compensation to which a workman is entitled under the Act takes the place of his right of action, and he may not sue his employer in court for damages for an injury sustained in the course of employment.

Benefits under the Acts include periodic payments to the workman during the period of temporary disablement (in all provinces on the basis of 75 per cent of average earnings, subject to the maximum annual earnings provided in the Act); an award for permanent disability (also based on 75 per cent of average earnings and subject to the ceiling on earnings provided in the Act) in the form of a monthly pension for life or, when disablement is slight, paid in a lump sum; all necessary medical aid, including hospitalization; and rehabilitation. In case of death by accident, fixed monthly payments are made to dependants. In addition to a monthly pension, a widow receives a lump sum payment and an allowance for funeral expenses.

There are two federal laws, one providing for compensation for employment injury to employees of the Government of Canada and the other covering merchant seamen not protected by a provincial Act. The federal Government Employees Compensation Act provides that com-

pensation benefits payable to an employee of the Crown are to be the same as those provided for employees employed in private industry under the workmen's compensation law of the province in which the federal government employee is usually employed. The right to compensation and the amount of benefits are determined by the provincial Workmen's Compensation Boards, which, by arrangement, handle the adjudication of claims under the federal Act as the agents of the federal Government.

Under the Merchant Seamen Compensation Act, which is administered by a board composed of three officers of the public service, the employer is individually liable for the payment of compensation, and must carry accident insurance to cover his liability.

Further information about the provincial workmen's compensation laws and the two federal compensation Acts is contained in the publication, *Workmen's Compensation in Canada*, published by the Canada Department of Labour and available from the Queen's Printer, Ottawa.

The benefits payable under the provincial Acts are set out in tabular form on the following pages.



## 1. Monthly Benefits to Dependents in Case of Death of Workman

Funeral	Widow or Invalid Widower	Children with Parent	Orphans	Where only dependants are other than consort and child	Maximum
<b>NEWFOUNDLAND</b>					
\$300 <sup>1</sup>	\$100 plus sum of \$200	Under 16, \$35 each <sup>2</sup>	Under 16, \$45 each <sup>2</sup>	Sum to be determined by Board, reasonable and proportionate to pecuniary loss <sup>3</sup>	\$375 <sup>4</sup>
<b>PRINCE EDWARD ISLAND</b>					
\$300 <sup>1</sup>	\$75 plus sum of \$200	Under 16, \$25 each <sup>2</sup>	Under 16, \$35 each <sup>2</sup>	As in Newfoundland. Maximum to parent(s), \$40. Maximum in all, \$60 <sup>3</sup>	75% of workman's average earnings, but Board may waive the 75% restriction where circumstances require it and pay \$75 to widow and \$25 for each child under 16 <sup>4</sup>
<b>NOVA SCOTIA</b>					
\$400 <sup>1</sup>	\$90 plus sum of \$250	Under 18, \$30 each <sup>2</sup>	Under 18, \$35 each <sup>2</sup>	As in Newfoundland. Maximum \$60 each. Maximum in all, \$75 <sup>3</sup>	
<b>NEW BRUNSWICK</b>					
\$500 <sup>1</sup>	\$100 plus sum of \$200	Under 21, if attending school, \$25 each <sup>2</sup>	Under 21, if attending school, \$50 each <sup>2</sup>	As in Newfoundland <sup>3</sup>	75% of \$5,500 a year (1969); 75% of \$6000, thereafter <sup>4</sup>
<b>QUEBEC</b>					
\$600 <sup>1</sup>	\$100 plus sum of \$500	Without age limit, if attending school, \$35 each (18 age limit, if not attending school) <sup>2</sup>	Without age limit, if attending school, \$55 each (18 age limit, if not attending school) <sup>2</sup>	As in Newfoundland <sup>3</sup>	75% of workman's average earnings <sup>4</sup> . Minimum \$135 to widow and one child; \$170 to widow and two children; \$205 to widow and more than two children
<b>ONTARIO</b>					
\$400 <sup>1</sup>	\$125 plus sum of \$500	Under 16, \$50 each <sup>2</sup>	Under 16, \$60 each <sup>2</sup>	As in Newfoundland. Maximum \$150 <sup>3</sup>	Average monthly earnings of the workman <sup>4</sup> . Minimum \$125 to widow, \$50 to each child or \$60 to orphan child, unless total benefits exceed \$275

# MANITOBA

\$300 <sup>1</sup>	\$120 plus sum of \$500	Under 10, \$45 each; 10-16 years, \$50 each <sup>2</sup>	Under 10, \$55 each; 10-16 years, \$60 each <sup>2</sup>	Maximum to wholly dependent mother, \$120. Other dependants, as in Newfoundland. Maximum \$30 each. Maximum in all, \$603	75% of workman's average earnings <sup>4</sup> . Minimum \$120 to widow; \$120 plus amount payable in respect of the child to widow and one child; \$120 plus amount payable in respect of the two eldest children to widow with two or more children
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# SASKATCHEWAN

\$250 <sup>1</sup>	\$115 plus sum of \$300	Under 16, \$50 each <sup>2</sup>	Under 16, \$65 each plus sum not exceeding \$50 at the discretion of the Board <sup>2</sup>	As in Newfoundland <sup>3</sup>	Average monthly earnings of the workman <sup>4</sup> . Minimum \$115 to widow; \$165 to widow and one child; \$215 to widow and two children and \$30 for each additional child
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# ALBERTA

\$350 <sup>1</sup>	\$110 plus sum of \$300	Under 16, \$50 each <sup>2</sup>	Under 16, \$50 each plus an amount not exceeding \$50 to any child under 21 <sup>2</sup>	As in Newfoundland. Maximum to parent(s), \$50. Maximum in all, \$85	
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# BRITISH COLUMBIA

\$265 with additional \$85 for burial or cremation charges <sup>1</sup>	\$129.51 <sup>5</sup> plus sum of \$250	Under 16, \$45.05 each; 16-18 years, if attending school, \$50.68 each; 18-21 years, if attending school, \$56.31 each <sup>2, 5</sup>	Under 16, \$50.68 each; 16-21 years, if attending school, \$61.95 each <sup>2, 5</sup>	(a) As in Newfoundland. Maximum \$115 to parent(s). Maximum in all, \$115 (b) If there is widow or orphans, maximum to parent(s), \$115 <sup>3</sup>	
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<sup>1</sup> For transporting body for burial, a maximum of \$150 in Quebec, of \$125 in Newfoundland, and of \$100 in Alberta, British Columbia, Nova Scotia and Prince Edward Island may be paid. Necessary expenses may be paid in New Brunswick, Ontario and Saskatchewan. In Manitoba, the Board may pay transportation expenses within the province and part of expenses if the body is moved into or from the province. In Alberta and British Columbia, only transportation expenses within the province are allowed. A sum of up to \$50 in Manitoba and Saskatchewan, and up to \$100 in Alberta, may be paid for a burial plot.

<sup>2</sup> Payments to children may be made, at the discretion of the Board, if desirable for a child to continue his education, to the age of 21 in Alberta, Newfoundland, Prince Edward Island and Saskatchewan, to the age of 21 or to the end of the school year in which a child reaches the age of 21 in Nova Scotia, until the child is granted a university degree for the first time or completes a course in technical training in Manitoba, and as long as the child is pursuing his studies in Ontario. In Manitoba, a higher allowance (\$60 a month in respect of a child who is not an orphan; \$70 a month in respect of an orphan child) is payable after the age of 16, thus taking into account increased costs of maintenance and schooling. In Alberta, the allowance to a child 16-21 while attending school is \$55 a month. In Alberta, Newfoundland and Prince Edward Island, payments to invalid children are continued so long as the Board considers the workman would have contributed to the child's support. In other provinces payments are continued until recovery. In Alberta, a higher allowance (\$55 a month) is payable in respect of invalid children, as well as an additional payment in the discretion of the Board not exceeding \$50 a month.

<sup>3</sup> Compensation in these cases is continued only so long as the Board considers workman would have contributed to support.

<sup>4</sup> For maximum annual earnings on which compensation may be based, see Table 2, Column 5.

<sup>5</sup> In accordance with a formula introduced in 1965, pensions and allowances for widows and children are increased 2% for each rise of 2% in the Consumer Price Index.

## 2. Benefits in Case of Disability

PERMANENT		TEMPORARY		Maximum Earnings Reckoned
Total	Partial	Total	Partial	
NEWFOUNDLAND				
75% of earnings. Minimum \$125 a month or earnings, if less	Proportion of 75% of earnings based on impaired earning capacity estimated from nature and degree of injury <sup>1,2,3</sup>	75% of earnings for duration of disability. Minimum \$25 a week or earnings, if less	Proportion of 75% of earnings based on impaired earning capacity estimated from nature and degree of injury, or, if more equitable, 75% of difference in earnings before and after accident for duration of disability <sup>2,3</sup>	\$6,000 a year
PRINCE EDWARD ISLAND				
75% of earnings. Minimum \$25 a week or earnings, if less <sup>4</sup>	Proportion of 75% of earnings based on impaired earning capacity estimated from nature and degree of injury <sup>1,2,3</sup>	75% of earnings for duration of disability. Minimum \$25 a week or earnings, if less <sup>4</sup>	75% of difference in earnings before and after accident or compensation based on impaired earning capacity estimated from the nature of the injury for duration of disability <sup>2,3</sup>	\$6,000 a year
NOVA SCOTIA				
75% of earnings. Minimum \$125 a month or, if the workman has more than one child under 16, the amount which a widow with the same number of children would receive	Proportion of 75% of earnings based on impaired earning capacity estimated from nature and degree of injury. If disability 15% or more, average earnings must be taken as not less than \$160 a month <sup>1,2,3</sup>	75% of earnings for duration of disability. Minimum \$35 a week or earnings, if less	75% of difference in earnings before and after accident for duration of disability <sup>2,3</sup>	\$6,000 a year
NEW BRUNSWICK				
Average earnings but not in excess of 75% of \$5,500 in 1969; \$6,000 thereafter	Amount determined by Board, proportionate to diminution of earning capacity <sup>2</sup>	75% of earnings for duration of disability. Minimum \$30 a week or earnings, if less	If earning capacity diminished by more than 10%, 75% of diminution of earning capacity for duration of disability	\$5,500 a year in 1969; \$6,000 thereafter
QUEBEC				
75% of earnings. Minimum \$35 a week or earnings, if less	Proportion of 75% of earnings in accordance with the degree of disability <sup>2,3</sup>	75% of earnings for duration of disability. Minimum \$35 a week or earnings, if less	Proportion of 75% of earnings in accordance with the degree of disability for duration of disability <sup>2,3</sup>	\$6,000 a year

ONTARIO			
75% of earnings. Minimum \$175 a month	Proportion of 75% of earnings based on impaired earning capacity estimated from nature and degree of injury <sup>1,2,3</sup>	75% of earnings for duration of disability. Minimum \$40 a week or earnings, if less	75% of difference in earnings before and after accident or compensation based on impaired earning capacity estimated from the nature of the injury for duration of disability <sup>2,3</sup>
MANITOBA			
75% of earnings. Minimum \$150 a month or earnings, if less	Proportion of 75% of earnings based on impaired earning capacity estimated from nature and degree of injury <sup>1,2,3</sup>	75% of earnings for duration of disability. Minimum \$35 a week or earnings, if less	75% of difference in earnings before and after accident or compensation based on impaired earning capacity estimated from the nature of the injury for duration of disability <sup>2</sup>
SASKATCHEWAN			
75% of earnings. Minimum \$36 a week	Proportion of 75% of earnings based on impaired earning capacity estimated from nature and degree of injury <sup>1,2,3</sup>	75% of earnings for duration of disability. Minimum \$36 a week or earnings, if less	Proportion of 75% of earnings based on impaired earning capacity estimated from nature and degree of injury for duration of disability <sup>3</sup>
ALBERTA			
75% of earnings. Minimum \$175 a month	Proportion of 75% of earnings based on impaired earning capacity estimated from nature and degree of injury <sup>2</sup>	75% of earnings for duration of disability. Minimum \$40 a week or earnings, if less	Proportion of 75% of earnings based on impaired earning capacity estimated from nature and degree of injury for duration of disability
BRITISH COLUMBIA			
75% of earnings. Minimum \$156.06 a month <sup>5</sup>	Proportion of 75% of earnings based on impaired earning capacity estimated from nature and degree of injury <sup>1,2,3</sup>	75% of earnings for duration of disability. Minimum \$33.78 a week or earnings, if less <sup>5</sup>	Proportion of 75% of earnings based on impaired earning capacity estimated from nature and degree of injury, or, if more equitable, 75% of difference in earnings before and after accident for duration of disability <sup>2,3</sup>

<sup>1</sup> The Act also permits the use of the wage-loss method in calculating compensation. Under this method, compensation is 75 per cent of the difference in the average earnings of the workman before and after the accident.

<sup>2</sup> If earning capacity is diminished 10% or less (5% or less in Alberta), a lump sum may be given.

<sup>3</sup> The minimum payable in case of partial disability is the same proportion of the minimum for total disability (see preceding column) as impairment is of full earning capacity.

<sup>4</sup> Board may fix compensation on basis of \$15 a week, even though earnings are less than that amount.

<sup>5</sup> As increased in accordance with a formula introduced in 1965, under which pensions and minimum compensation are increased 2% for each rise of 2% in the Consumer Price Index.

<sup>6</sup> Provision was made for periodical increases of \$1,000 in the ceiling, if earnings increase in line with a formula contained in the Act.

## LABOUR STANDARDS IN THE YUKON AND NORTHWEST TERRITORIES

Labour standards legislation has been enacted by the Territorial Councils of the Yukon and Northwest Territories in most of the fields of legislation covered by this publication. New Labour Standards Ordinances, modelled on the Canada Labour (Standards) Code, with modifications to meet the particular requirements of the Territories, went into force on July 1, 1968. The Ordinances establish minimum standards of hours of work, wages, annual vacations and public holidays for employees in the Territories. Previous to the enactment of the Northwest Territories Ordinance, the only labour standards applicable were those established by mines legislation. Standards in the Yukon Ordinance replaced those previously laid down in the Yukon Labour (Minimum Wages) Ordinance, the Labour Provisions Ordinance and the Annual Vacations Ordinance, now repealed.

The Commissioner of each Territory is to administer the Ordinance, with the advice and assistance of an Advisory Board, consisting of a chairman, an employers' representative and an employees' representative. Provision was made for the appointment of a Labour Standards Officer to administer the Ordinance, under the Commissioner's direction, and for the appointment of inspectors.

The Ordinances apply to employers and employees in any work, undertaking or business of a local or private nature in the Territory. The Northwest Territories Ordinance excludes domestic servants in private homes, trappers, persons engaged in commercial fisheries, and managers or superintendents or persons who exercise management functions. Members or students of designated professions may be excluded by regulations. The Yukon Ordinance applies generally but certain classes of employees are excluded from Part I governing hours of work.

### Statutory School-Leaving Age

In both Territories, a School Ordinance provides for compulsory school attendance to the age of 15. In the Northwest Territories, if a child reaches his 15th birthday after December 31, he must attend to the end of the school year. As in the provinces, a child may be exempted from school attendance if he is under instruction in some other satisfactory manner, if he is prevented from attending school for any unavoidable cause, or if he has reached a standard of education



equal to or higher than that to be attained in the school. In the Northwest Territories, a child may be allowed to leave school before the statutory school-leaving age if he has completed Grade VIII or its equivalent. An exception is also permitted in the Northwest Territories in the case of a child who is unable to attend because of distance from school or lack of school accommodation.

### **Minimum Age for Employment**

Under a Mining Safety Ordinance in each Territory, the minimum age for employment below ground is 18 years. The Northwest Territories Ordinance in addition sets a minimum age of 16 years for employment above ground in mines.

Under the Labour Standards Ordinances of both Territories, regulations may be made laying down conditions under which young persons under the age of 17 years may be employed.

### **Minimum Wages**

Both Ordinances require the payment of a minimum rate of wages of \$1.25 an hour. This rate applies to employees who are 17 years of age and over.

Employees paid on other than a time basis, such as piece-workers and persons paid a mileage rate, are required to receive the equivalent of the minimum wage.

In the Northwest Territories, Labour Standards Regulations were issued under the Labour Standards Ordinance. Under these Regulations, an employee who is required to report for work must be paid a minimum of 4 hours' pay at his regular rate. The maximum deductions that may be made for board and lodging are 50 cents a meal and 60 cents a day for lodging. An employee's wages must not be reduced below the minimum wage for meals supplied, the furnishing and upkeep of uniforms or for accidental breakages.

### **Hours of Work**

The Mining Safety Ordinances of both Territories provide for a maximum eight-hour day for work below ground in mines.

Under the Labour Standards Ordinance of the Northwest Territories, standard hours of work are 8 in a day and 48 in a week for most employees. Except in special circumstances, maximum hours are 10 in a day and 60 in a week.

Different standards are laid down for certain classes of employees. Standard hours of 208 in a month have been established for persons employed in exploration and development of metal mining and petroleum (including geophysical, geological, seismological and diamond drilling work), the transport of goods to and from isolated areas, tourist camps and commercial fishing. For these employees, maximum hours are 260 in a month.

In the Yukon Territory, standard hours are 8 in a day and 48 in a week except for employees in shops, for whom standard hours of 8 in a day and 44 in a week are established. "Shop" is defined as an establishment where wholesale or retail trade is carried on or where services are dispensed to the public for profit. Maximum hours of work permitted are 10 in a day, 60 in a week and 260 in a month. Overtime beyond the limits of 8 and 48 hours is prohibited for employees engaged in mining operations underground in a shaft or tunnel.

In all cases where an employee is required or permitted to work in excess of standard hours, he must be paid one and one-half times his regular rate.

Averaging of hours over a period of two or more weeks is permitted under both Ordinances. The manner and circumstances in which averaging may be allowed are to be prescribed by regulations.

Exceptions from maximum hours are permitted in certain circumstances.

Where work in an industrial establishment is seasonal or intermittent in nature, the Commissioner, after having considered the nature of the establishment, the conditions of employment and the welfare of the employees, may issue an order permitting excess hours to be worked.

In the Northwest Territories, hours in excess of maximum hours (10 and 60 or 260, as the case may be) may be worked with a permit issued by the Labour Standards Officer, when the applicant has satisfied him that there are exceptional circumstances to justify the working of additional hours.

Under both Ordinances, maximum hours may be exceeded in an emergency due to an accident, breakdown in machinery or other unpreventable circumstances. Details of such emergency work must be reported (in the Yukon, only upon request).

The hours of work provisions of the Yukon Ordinance do not apply to members of the employer's family, individuals who search for minerals, travelling salesmen, domestic servants, farm labourers, and

supervisory and managerial employees. Members and students of professions and other persons or classes of persons may be excluded by regulations.

Persons employed as hunting or fishing guides are exempted from the hours of work provisions of the Northwest Territories Ordinance.

### **Weekly Rest-Day**

Both Ordinances provide that, unless an exception is made by regulations, employees must be given at least one full day of rest in each week, and that the normal day of rest must be Sunday wherever practicable.

### **Annual Vacations with Pay**

Under both Ordinances, employers are required to give their employees an annual vacation with pay of at least two weeks in respect of every completed year of employment.

A "year of employment" is defined as continuous employment of an employee by one employer for a period of 12 consecutive months beginning with the date employment began or any subsequent anniversary date.

Vacation pay is 4 per cent of the employee's wages for the year of employment in respect of which he is entitled to a vacation. The vacation must be granted not later than 10 months after the date on which the employee becomes entitled to it. Vacation pay must be given at least one day before the vacation is to begin or at an earlier date, if the regulations so prescribe.

The Yukon Ordinance provides that, if a general holiday occurs during an employee's vacation, the vacation is to be extended by one day in lieu of the holiday, and that the employee must be paid the wages to which he is entitled for the holiday, in addition to his vacation pay.

When employment is terminated during a year, the employee is entitled to any vacation pay owing to him in respect of a previous completed year of employment and to 4 per cent of his wages for the period he has worked during the year. An employee is not entitled to vacation pay, however, unless he has been continuously employed for 30 days or more.

When a business changes hands, an employee is considered to have been in continuous employment before and after the transfer.

The Yukon Ordinance excludes from its annual vacation provisions employees who are members of the employer's family.

### **Public Holidays**

In both Territories, employees are entitled to a holiday with pay in respect of each of the general holidays listed in the Ordinance. Both Ordinances provide for the same eight general holidays as are named in the federal Code but in the Yukon Ordinance a ninth holiday, Discovery Day, is provided for. Another holiday may be substituted for any of the listed holidays.

The Yukon Ordinance states that, where a general holiday falls on a Sunday, the Monday following is to be a holiday with pay.

The Labour Standards Officer may allow another holiday with pay to be substituted for a general holiday if another holiday is specified in a collective agreement or, where there is no collective agreement, if an employer applies for a substitution and the majority of the employees agree.

In the Northwest Territories, an employee is entitled to a holiday with pay only when a general holiday falls on a regular working day.

In the Northwest Territories, if an employee is required to work on a holiday, he must be paid his regular pay for the day and must, in addition, be paid at his regular rate of wages for the hours worked or he must be given a holiday with pay at a time convenient to him and his employer, not later than his next annual vacation or on termination of employment, whichever occurs first.

The Yukon Ordinance follows the Canada Labour (Standards) Code in requiring, for work done on a holiday, payment of regular pay plus wages at the rate of time and one-half for the hours worked. This provision does not apply to custodial work or essential services as prescribed by regulations. A person employed in any such employment must be granted a holiday with pay at another time in lieu of a holiday on which he was required to work.

An employee who is not required to work on a general holiday must not be required to work on another day of that week that would otherwise be a non-working day, unless he is paid at least double his regular rate of wages in the Northwest Territories, or at least one and one-half times his regular rate of wages in the Yukon, for the time worked by him on that day.

The circumstances under which payment of holiday pay is not required differ in the Ordinances.



In the Yukon, an employee is not entitled to pay in respect of a holiday on which he does not work (a) if the holiday occurs in his first 30 days of employment with an employer, or (b) if he is not entitled to wages for at least 15 days in the 30 calendar days immediately preceding the holiday, or (c) if he has not worked an average of 24 hours a week during the four-week period immediately preceding the week in which the holiday falls (excluding any period of annual vacation), or (d) if he did not report for work on the holiday after having been called to work, or (e) if, without his employer's consent, he did not report for work on either the day preceding or the day following the holiday.

Under the Northwest Territories Ordinance, an employee is not entitled to be paid for a holiday if he has not worked for his employer for at least 30 days in the preceding 12 months. Other exception are the same as in (d) and (e) above.

### **Fair Employment Practices and Equal Pay**

Both Territorial Councils have enacted Fair Practices Ordinances (the Yukon in 1963 and the Northwest Territories in 1966) prohibiting discrimination in regard to employment and membership in trade unions on grounds of race, colour, religion or national origin.

While the intent of the two Ordinances is the same, they employ somewhat different wording in regard to the forbidden bases of discrimination. The Yukon Ordinance prohibits discrimination on grounds of "race, religion, religious creed, colour, ancestry, or ethnic or national origin". In the Northwest Territories Ordinance the wording is "race, creed, colour, nationality, ancestry or place of origin".

Both Ordinances cover a wider field than employment practices. Both prohibit discrimination on the grounds listed above in regard to public accommodation and multiple housing. The Northwest Territories Ordinance also forbids an employer to discriminate between his male and female employees by paying a female employee at a lesser rate of pay than the rate paid to a male employee for the same work done in the same establishment.

The Ordinances are patterned after the provincial fair employment practices laws. They bar an employer from refusing to hire, from discharging or from adversely discriminating in any term or condition of employment on any of the above-mentioned grounds. They prohibit the use of job application forms that require an applicant to give particulars as to his race, colour, religion or national origin.



Trade unions are forbidden to discriminate on any of the same grounds in admitting, suspending or expelling a member.

The prohibitions do not apply to domestic employment, to non-profit charitable, philanthropic, educational, fraternal, religious or social organizations or those operated primarily to foster the welfare of a religious or racial group, or to employers who employ fewer than five persons.

The Ordinances do not deprive an employer of the right to employ persons of any particular race, colour, religion or national origin in preference to other persons, where such preference is based upon a *bona fide* occupational qualification. The Northwest Territories Ordinance adds the words "necessary to the normal operation of the employer's business or enterprise". Schools in which religious instruction forms or can form part of the curriculum are permitted to hire persons of a particular religion or religious creed.

Procedures for the enforcement of the Fair Practices Ordinances are similar to those in the provincial fair employment practices laws providing for investigation of complaints of discrimination, the adjustment of cases through discussion and mediation, and for prosecution and penalties as a last resort.

A complaint alleging discrimination is to be made to the officer appointed by the Commissioner of the Territory to deal with such matters. The Commissioner may then appoint an officer to inquire into the complaint. If a settlement is not reached through conciliation, the officer must recommend to the Commissioner the action that in his opinion should be taken with respect to the complaint, and the Commissioner may issue whatever order he thinks necessary to put the recommendations into effect. A person affected by such an order may within ten days appeal to a judge of the Territorial Court, whose decision is final.

## **Workmen's Compensation**

Each Territory has a Workmen's Compensation Ordinance that makes the employer individually liable to pay compensation and requires him to carry accident insurance to cover his liability or make other arrangements acceptable to the Commissioner. Under both Ordinances, the Alberta Workmen's Compensation Board acts as Referee to determine disputed claims.

The scale of benefits payable under each Ordinance has been increased at intervals but increases in benefits to widows and children and other dependants are made applicable only with respect to accidents occurring after the effective date of the amendments. Hence, lower scales of benefits are in effect for dependants in receipt of pensions as a result of earlier accidents.

Both Ordinances were revised in 1966, following the recommendations of a board of inquiry, to provide for a similar scale of benefits.

A widow is entitled to a maximum of \$300 for burial expenses, a lump sum payment of \$300 and a monthly pension of \$100 payable until remarriage or death. The \$100-a-month widow's pension is payable under the Northwest Territories Ordinance with respect to accidents occurring on or after January 1, 1967. A widow continues to receive a monthly payment of \$50 where the accident occurred on or before December 31, 1955; \$75 where the accident occurred in the period between January 1, 1956, and December 31, 1961; and \$90 where the accident occurred in the period between January 1, 1962, and December 31, 1966. In the Yukon Territory, the monthly pension of \$100 has been payable in respect of all accidents occurring since July 9, 1961. Pensions of \$50 and \$75 a month, depending on the date of the accident, continue to be paid in respect of earlier accidents.

In respect of accidents occurring on or after January 1, 1967, in the Northwest Territories and after April 1, 1967, in the Yukon, a monthly payment of \$45 is payable to a dependent child. This allowance is payable in the Yukon to all children under the age of 18; in the Northwest Territories, it is payable to the age of 16 and may be continued, in the discretion of the Referee, to the age of 18 so long as the child is attending school and making satisfactory progress. Under both Ordinances, an additional payment, not exceeding \$10 a month, may be made, at the discretion of the Referee, to an orphan child. Smaller allowances are payable in respect of earlier accidents.

Where the only dependants are persons other than widow or children, compensation is to be a sum determined by the Referee in proportion to the pecuniary loss sustained, not exceeding \$75 a month to one parent or \$100 a month to two parents. These limits have been applicable with respect to accidents occurring after January 1, 1956. Limits of \$50 and \$85, respectively, apply to earlier accidents.

Under both Ordinances, time-loss compensation at the rate of 75 per cent of the workman's average weekly earnings is paid for the duration of temporary disability. A workman who is permanently and

totally disabled is entitled to be paid a pension for as long as he lives equal to 75 per cent of his average weekly earnings. Compensation payments for total disability, either permanent or temporary, may not be less than \$35 a week, or the workman's average earnings, if less. For a workman with a permanent partial disability, compensation is a proportion of 75 per cent of his average earnings, depending on impairment of earning capacity as a result of the injury.

In computing average earnings, the maximum amount of annual earnings which may be taken into account is \$5,600 under both Ordinances (in respect of accidents occurring on or after January 1, 1967, in the Northwest Territories and after April 1, 1967, in the Yukon). Lower ceilings are applicable with respect to earlier accidents.

In addition to compensation payments, the injured workman is entitled to medical aid, the cost of which is borne by the employer. The Referee may require the employer or insurer to pay the expenses of occupational retraining of a permanently disabled workman, up to an amount not exceeding \$5,000.







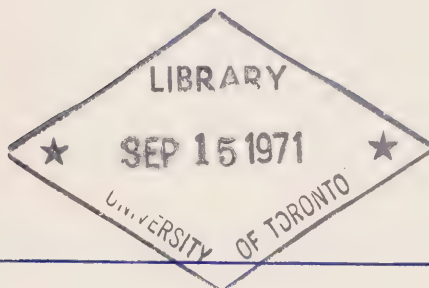




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# LABOUR STANDARDS IN CANADA

DECEMBER 1970



CANADA DEPARTMENT OF LABOUR

*Legislative Research*  
Legislative Research Branch

Hon. Bryce Mackasey / Minister

J. D. Love / Deputy Minister



# LABOUR STANDARDS IN CANADA

DECEMBER 1970

LEGISLATIVE RESEARCH BRANCH  
CANADA DEPARTMENT OF LABOUR



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Catalogue No. L2-7/1970

Price subject to change without notice

Information Canada  
Ottawa, 1971

## FOREWORD

This publication, issued annually, sets out the standards that are in effect under federal and provincial labour laws with respect to child labour, minimum wages, equal pay for equal work, hours of work, weekly rest-day, annual vacations with pay, public holidays, fair employment practices, notice of termination of employment, maternity protection and workmen's compensation. The standards set by labour Ordinances of the Yukon and Northwest Territories are included.

"Standards" as used in the title means the minimum standards required by law. These standards are set out in tables, where appropriate, and in other instances in narrative form. Changes in labour standards in 1970 are summarized, beginning at page 9.

The publication was prepared by Miss Evelyn Woolner, Assistant Director of the Legislative Research Branch, with the assistance of Miss Liis Painter.

R. W. MITCHELL,  
*Director,*  
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December 31, 1970.



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## DIVISION OF LEGISLATIVE POWERS

Since both the Parliament of Canada and the provincial legislatures have power to enact labour laws and each is sovereign in its own jurisdiction, it is important for the user of this publication to be clear about the field of authority of each.

In the division of legislative powers between Parliament and the legislatures of the provinces in matters of labour legislation, the provincial legislatures have the major jurisdiction and Parliament has authority only in a limited field.

The right to make laws concerning labour in Canada stems from Sections 91 and 92 of the British North America Act and from court interpretations of these sections.

Provincial authority flows principally from the fact that Section 92 of the B.N.A. Act gives the provinces exclusive power to make laws regarding "property and civil rights in the province." The right to contract is a civil right, and labour laws, which impose conditions on the rights of the employer and employee to enter into a contract of employment (e.g., a minimum age for employment, a minimum rate of wages, limits on working hours), are laws in relation to civil rights. The provinces also have exclusive legislative jurisdiction over "local works and undertakings."

The power of Parliament to legislate in labour matters is derived from and is an incidental part of its exclusive legislative authority over certain classes of subjects assigned to it in the B.N.A. Act. These are enumerated in Section 91 or are expressly excepted from provincial jurisdiction by Section 92(10) and brought within the exclusive jurisdiction of Parliament by Section 91(29).

The specific industries and undertakings which Parliament has exclusive power to regulate and control are those of a national, inter-provincial or international nature. Parliament has authority to regulate, e.g., the operation of railways, telegraphs, canals and other works and undertakings *connecting the provinces or extending beyond the limits of a province*. It has the further authority to regulate undertakings or businesses which are wholly within a province but which have been declared by Parliament to be for the "general advantage" of Canada or for the advantage of two or more of the provinces. Grain elevators, feed mills, uranium mines and defined operations of specific companies are some of the undertakings that have been declared to be for the general advantage of Canada.

Parliament may legislate for certain classes of employers and

employees, therefore, because of the nature of the operations in which they are engaged. By virtue of its exclusive power to regulate the management and operation of particular works, undertakings or businesses, it has authority to enact legislation setting minimum standards and conditions of employment for workers engaged in such works, undertakings or businesses.

The industries or undertakings to which the Canada Labour (Standards) Code, and, with some variations, other federal labour legislation, applies are as follows:

1. Operations that connect a province with another province or another country, such as railways, bus operations, trucking, pipelines, ferries, tunnels, bridges, canals and telegraph, telephone and cable systems
2. All extra-provincial shipping and services connected with such shipping, e.g., longshoring and stevedoring
3. Air transport, aircraft and aerodromes
4. Radio and television broadcasting
5. Banks
6. Primary fishing, where fishermen work for wages
7. Flour, feed, and seed cleaning mills and feed warehouses
8. Grain elevators
9. Uranium mining and processing
10. Defined operations of specific companies that have been declared to be for the "general advantage" of Canada or for the advantage of two or more provinces
11. Most federal Crown corporations, e.g., the Canadian Broadcasting Corporation and the St. Lawrence Seaway Authority.

To sum up, Parliament's jurisdiction is limited to employment in or connected with the industries set out above. *The remaining field of employment, including manufacturing, mining, construction, logging, wholesale and retail trade, the service industries and local business generally, is subject to labour legislation enacted by the provincial legislature.*

Parliament has legislative authority with respect to those parts of Canada that are not included within a province. In two federal laws, the Yukon Act and the Northwest Territories Act, it has made provision for local government of each Territory by a Commissioner and a Territorial Council. The Commissioner and Council have legislative powers, subject to any other Act of the Parliament of Canada, with respect to a number of matters, including property and civil rights in the Territory, and

generally in relation to all matters of a merely local or private nature in the Territory. The jurisdiction of the Territorial Councils in labour matters is thus the same as that of the provincial legislatures, with the fundamental difference that the jurisdiction has been conferred by an Act of Parliament. Federal labour standards laws do not apply to undertakings of a local or private nature in the Territories.

## **CHANGES IN LABOUR STANDARDS IN 1970**

### **General Summary**

The federal minimum wage rates, set by the Canada Labour (Standards) Code and regulations, were increased as of July 1, 1970, from \$1.25 an hour to \$1.65 for employees of 17 years and over and from \$1 an hour to \$1.40 for employees under 17.

The Alberta Legislature, in re-enacting the School Act, repealed a provision which enabled a child of 12 and over to be exempted from school attendance for a period not exceeding three weeks in each term for purposes of employment. The Alberta Labour Act was amended to fix a minimum age of 15 years for any employment, unless the written consent of the parent or guardian and the approval of the administrative board are obtained. Previously, a 15-year minimum age applied to employment in a factory, shop or office building and no exceptions were provided for.

The general regulations under the Ontario Employment Standards Act (the provincial labour code) were amended, making changes in regard to coverage and exemptions.

Persons employed on a farm in work directly related to the primary production of farm products are excluded from minimum wage, hours, overtime and annual vacation standards but are covered by the remaining Parts of the Act (notice of termination of employment, equal pay and wage protection).

The regulations extended the application of the Act to workers employed in horticulture, veterinary services and a variety of occupations related to but distinct from farming proper. These workers, who were previously subject to the minimum wage and annual vacation requirements of the Act, were brought within the scope of the hours and overtime provisions, with the exception of those employed in landscape gardening, mushroom growing, the growing of flowers for the retail and wholesale trade, and the growing, transporting and laying of sod.

A commission salesman, other than a route salesman, is exempted from hours, overtime and minimum wage provisions but is entitled to an annual vacation with pay and is covered by all other Parts of the Act. Real estate salesmen are exempted from the Act except in regard to notice of termination of employment, equal pay and wage protection. Persons employed as trainees in a course of study leading to qualification as nurse, nursing assistant, laboratory technologist and radiological technician are excluded from minimum wage and annual vacation provisions.

Minimum wage orders were revised in seven provinces, in all cases raising minimum rates, and in some making changes in regard to zoning, the overtime pay requirement and other matters. The Newfoundland minimum wage order was made applicable to farm workers.

The equal pay provisions of the Alberta Labour Act were strengthened. The Act now prohibits discrimination on grounds of sex in the payment of wages where the work of male and female employees is "similar or substantially similar." The previous wording was "identical or substantially identical." Apart from the complaint procedure provided for in the Act, the Director of Labour Standards may cause an inquiry to be made on his own initiative, where there appears to be pay discrimination.

In Manitoba, standard weekly hours of work for men were reduced to 44 from January 1, 1971. Formerly, standard hours were 8 and 48 for men, and 8 and 44 for women. Limits formerly placed on the hours of overtime that could be worked by women in Manitoba were deleted.

Overtime pay requirements were established for male workers in Prince Edward Island. Changes were made in a number of provinces in overtime pay requirements or in the standard hours after which the overtime rate must be paid. These included provisions in Québec General Minimum Wage Order 4 and in orders governing the service industries and the hotel and restaurant industry requiring payment of one and one-half times the minimum rate for work in excess of 48 hours in a week and double the minimum rate after 60 hours. The requirement to pay double the minimum rate after 60 hours is unique in Canada.

The weekly rest provision in the Alberta Labour Act was reworded to provide greater flexibility in the granting of a weekly rest-day to employees.

Annual vacation benefits were increased in Ontario. Employees are now entitled to a vacation of at least one week after a year of



employment and of at least two weeks after two years' service. Vacation pay is 2 or 4 per cent of the "total pay" of the employee in the year for which the vacation is given. Previously, employees were entitled to a two-week vacation after four years' service. In Nova Scotia, the three-month service requirement for entitlement to vacation pay on termination of employment was eliminated, and the vacation stamp system used in the construction industry was discontinued from July 1.

Manitoba introduced pay for seven public holidays on which an employee does not work. Previously, employees were entitled only to holiday pay (one and one-half times their regular rate) for work done on these holidays. Alberta increased the number of paid holidays to which employees are entitled from five to seven.

Manitoba consolidated its former Fair Employment Practices and Fair Accommodation Practices Acts and added new prohibitions to form a general human rights code, similar to those that have been enacted in most of the other provinces. A permanent body, the Manitoba Human Rights Commission, is to administer and enforce the Human Rights Act.

Ontario passed an Act to prevent discrimination in employment because of sex or marital status. The Act, cited as the Women's Equal Employment Opportunity Act, forbids discrimination because of sex or marital status in job recruitment, hiring, training, promotion, transfer and dismissal, unless the work in question cannot reasonably be performed by a person because of sex or marital status. The equal employment opportunity provisions apply to employers with six or more employees. Maternity leave provisions are also a part of this Act.

Legislation was adopted in Ontario (Part 1A of the Employment Standards Act) requiring employers to give written notice of termination of employment in cases of individual and collective dismissals. Persons who have been employed for less than three months are not entitled to notice on either an individual or group basis. An employer is required to give notice to an individual employee ranging from one to eight weeks, depending on the length of the employee's service. The group notice requirement applies when an employer proposes to terminate the employment of 50 or more persons within four weeks or less. The minimum periods of notice which must be given to the employee and to the Minister of Labour vary with the number of workers involved. A general regulation was issued under Québec legislation requiring employers to give advance notice of collective dismissals for technological or economic reasons.



Maternity protection legislation, applicable to employers with 25 or more employees, was enacted in Ontario. Under this law, an employee with a minimum of one year's service may not be dismissed because of pregnancy and is entitled to maternity leave of at least 12 weeks. On her return to work, she must be reinstated without loss of seniority or accrued benefits.

Six of the provincial Workmen's Compensation Acts were amended, increasing death and disability benefits. In British Columbia, the ceiling on annual earnings was increased to \$7,600, effective January 1, 1971, in line with a formula contained in the Act, which provides for an automatic increase of \$1,000 in the ceiling when certain wage levels have been attained in the province.

In the Yukon and Northwest Territories, minimum wage rates were increased. The Workmen's Compensation Ordinances of both Territories were amended to raise the ceiling on annual earnings from \$5,600 to \$6,600.

Further details of the new or revised standards are set out below.

### **Statutory School-Leaving Age**

In a revision of the School Act of **Alberta**, a provision permitting a child to be temporarily exempted from school attendance for purposes of employment was deleted. Previously, a certificate could be issued on the application of a parent or guardian, exempting a child of 12 and over from attending school for a period of up to three weeks in each term, if his services were required for necessary farm or home duties or employment. Such certificates may no longer be granted.

As before, a child is required to attend school to the age of 16 and may be exempted from attendance only under the conditions specified in the Act. A child may no longer be excused from attendance because of lack of accommodation in or distance from the school. The provisions prohibiting the employment of school-age children during school hours were transferred from the School Act to the Alberta Labour Act.

### **Minimum Age for Employment**

The **Alberta** Labour Act was amended to provide that a person under 15 may not be employed in any employment without the written consent of the parent or guardian and the approval of the Board of Industrial Relations. Previously, employment of persons under 15 in

a factory, shop or office building was forbidden and there was no provision for exceptions.

## Minimum Wages

The Parliament of Canada amended the *Canada Labour (Standards) Code* as of July 1, 1970, to increase the minimum wage rate to which employees 17 and over are entitled from \$1.25 to \$1.65 an hour. By an amendment to the general regulations under the Code, effective from the same date, the minimum rate for workers under 17 was increased by the same amount, rising from \$1 to \$1.40 an hour.

The **Newfoundland Minimum Wage Act** was amended to authorize the Minister of Labour to set special minimum rates for handicapped employees and to establish a three-year time-limit for prosecutions under the Act.

During the year increases in general minimum rates provided for in 1969 went into effect in **New Brunswick** and **Alberta**. In **New Brunswick**, a minimum rate of \$1.15 an hour became effective on January 1, 1970. In **Alberta**, the minimum rate for employees of 18 and over was increased to \$1.40 on April 1 and to \$1.55 on October 1, with corresponding changes in the rate for employees under 18, which is 15 cents less than the adult rate. Minimum rates for students employed part-time, commercial travellers and salesmen, and inexperienced female workers in the garment industry were also raised in two stages.

**British Columbia** issued a general minimum wage order which established a rate of \$1.50 an hour, effective May 4, 1970. The order was a consolidation of nine separate orders, most of which had set a minimum of \$1.25 an hour. The same rate of \$1.50 was set for the fresh fruit and vegetable industry. Rates for resident caretakers in apartment buildings with five or more suites were also increased.

Four orders were issued, to take effect on February 1, 1971. In all cases these established higher minimum rates, as follows: geophysical exploration and oil-well drilling and service industries \$1.50; pipeline construction \$1.50; barbering and hairdressing \$1.90; and occupation of first-aid attendant \$1.80.

In **Manitoba**, the minimum rate for workers 18 and over, which had been raised to \$1.35 on December 1, 1969, was further increased on October 1 to \$1.50 an hour. The minimum for workers under 18 is now \$1.25 an hour. During the first three months of employment, inexperienced workers must be paid \$1.35; during the second three

months \$1.45; and thereafter the regular minimum of \$1.50 an hour. Deductions allowed for room and board were also increased.

**Newfoundland** raised its minimum wage rates by 15 cents on July 1, and the age division between adult and young workers was lowered from 19 to 18. Men over 18 must now receive at least \$1.25 an hour and women over 18, \$1 an hour. For workers 16 to 18 the rates are 85 cents for males and 65 cents for females.

The order, except for the overtime provision, was made applicable to farming, which was defined to include the planting, cultivation and harvesting of farm produce and the raising of livestock and poultry. The entire order applies to greenhouse and nursery operations. Previously, farming and market gardening were excluded. The overtime provision, which requires the payment of one and one-half times the minimum rate after 48 hours in a week, now applies to fish processing. Deductions for board and lodging were established. Formerly, a special order governing the hotel and catering industry set a limit on charges per meal.

**Nova Scotia** made provision for a two-stage increase in its general minimum rates in 1971 and for an increase in all its industry rates. Effective January 1, 1971, the rates for men were increased by 5 cents and the rates for women by 10 cents. Similar increases are to take effect from July 1, 1971. Zone I, which previously embraced Halifax-Dartmouth, Sydney, New Glasgow, Truro, Amherst and Yarmouth and surrounding areas, was extended to include Antigonish and Port Hawkesbury. Zone II consists of the rest of the province.

The rates per hour established by the general order are as follows:

General rates (18 and over)				
	Male		Female	
	Jan. 1, 1971	July 1, 1971	Jan. 1, 1971	July 1, 1971
Zone I	\$1.30	\$1.35	\$1.10	\$1.20
Zone II	\$1.20	\$1.25	\$1	\$1.10

Rates for underage workers (14 - 18)				
	Male		Female	
	Jan. 1, 1971	July 1, 1971	Jan. 1, 1971	July 1, 1971
Zone I	\$1.10	\$1.15	\$ .90	\$1
Zone II	\$ .95	\$1	\$ .75	\$ .85

The minimum rates for beauty parlor employees were increased by 15 cents, effective January 1, 1971. For experienced workers, the new rates are \$1.25 in Zone I and \$1.10 in Zone II. Inexperienced employees must be paid at least 50 cents an hour in their first three

months of employment and 75 cents in the second three months in both zones; for the third three months, they must be paid at least \$1 in Zone I and 90 cents in Zone II. Previously, no minimum rate was set for the first three months of employment in beauty parlors.

Effective January 1, 1971, the minimum rate for workers in logging and forest operations was raised to \$1.25 an hour and for workers in road building and heavy construction to \$1.35, in each case an increase of 10 cents. Persons in logging and forestry operations who have no fixed workweek, such as guards, cooks, kitchen employees and watchmen, must be paid not less than \$250 a month, in place of the former minimum of \$225.

**Ontario** minimum rates were increased in two stages. The general minimum rate, previously \$1.30 an hour, rose to \$1.50 on October 1, 1970, and is to be increased to \$1.65 on April 1, 1971. A learner's rate 10 cents less than the rate payable to experienced workers may be paid during the first month of employment (previously, during the first four months). A "learner" is now defined as a person with no previous experience in the kind of work that he is hired for or performs. As before, the number of persons who may be employed as learners may not exceed one-fifth of the total number employed in the establishment.

For workers in the construction industry the minimum rate was raised from \$1.55 to \$1.75 on October 1 and to \$1.90 from April 1, 1971.

Similar increases of 20 and 15 cents were provided in the special rates set for certain other classes of employees. These increases brought the minimum wage payable to persons under 18 employed as messengers, delivery boys, newsvendors, bowling alley pin setters, golf caddies, etc., to \$1.10 an hour, to increase to \$1.25 on April 1.

Taxi drivers must be paid not less than the general rate of \$1.50 (\$1.65 from April 1) or, as previously, 35 per cent of the proceeds, whichever is greater. Ambulance drivers and their helpers and first-aid attendants must be paid a minimum weekly wage of \$72 (\$79.20 from April 1), i.e., the minimum wage for a 48-hour week; if they work less than 48 hours a week, they must receive the general hourly minimum rate.

For workers in the hotel, motel, tourist resort, restaurant and tavern industry the general minimum rates, learners' rates and students' rates apply, *except* that for assistant bell captains, bellmen, doormen, waiters, bus boys and waitresses the second increase (to \$1.65 or the \$1.55 learner's rate or the \$1.30 student's rate) goes into effect on October 1, 1971, instead of on April 1.



Students employed for 28 hours a week or less or during school holidays must be paid a minimum of \$1.15 an hour, to increase to \$1.30 on April 1. Student rates do not apply in the ambulance, construction or taxi industries.

The permitted deductions for room and meals were increased.

The **Prince Edward Island** minimum wage order governing male workers was revised, effective August 1, to require payment of overtime pay at the rate of one and one-half times the minimum rate for hours worked in excess of 48 in a week. Two exceptions are provided for. Persons engaged in food processing during the harvesting and processing season must be paid at the overtime rate after 60 hours in a week, and persons employed in road building are entitled to overtime pay after working 96 hours in any consecutive two weeks.

All male employees covered by the order are now entitled to a minimum rate of \$1.25 an hour. Potato warehousemen became eligible for this rate on January 1, 1970, and workers in the food processing industry on December 1, 1970.

**Québec** provided for a four-stage increase in minimum rates over a period of 18 months for employees governed by General Order 4, Order No. 5 governing service establishments and Order No. 8 governing hotel trade establishments. The first increase went into effect on May 1, 1970.

A number of significant changes were made in the revision of these orders. As of May 1, 1971, when the third of the four increases goes into effect, the zone system is to be abolished and a province-wide rate introduced. Special rates are no longer established for probationary employees during their first 60 days of work. Standard hours set by Orders 5 and 8 were reduced from 54 to 48 in a week. All three orders require payment of one and one-half times the minimum rate after 48 hours in a week and double the minimum rate after 60 hours. Previously, General Order 4 provided for overtime pay based on the employee's regular rate. The requirement to pay double the minimum rate after 60 hours is new. Workers earning a stated weekly wage are no longer excluded from overtime provisions.

The new rates set for employees 18 and over for a standard work-week of 48 hours are as follows:

General Order 4				
	May 1, 1970	Nov. 1, 1970	May 1, 1971	Nov. 1, 1971
Zone I	\$1.35	\$1.40	\$1.45	\$1.50
Zone II	\$1.30	\$1.35	province-wide	province-wide



#### Order No. 5 (Service Establishments)

Zone I	\$1.20	\$1.25	\$1.30	\$1.35
Zone II	\$1.15	\$1.20	province- wide	province- wide

#### Order No. 8 (Hotel Trade Establishments)

Zone I	\$1.15	\$1.20	\$1.25	\$1.30
Zone II	\$1.10	\$1.15	province- wide	province- wide

For workers in Zone I, the rates as of November 1, 1971, represent an increase of 25 cents an hour over their former rate; in Zone II the increase is 35 cents (30 cents in hotel trade establishments).

The order governing forest operations (Order No. 9) was revised, providing for a two-step increase in minimum rates on May 1, 1970, and May 1, 1971, and reducing the standard workweek from 54 to 48 hours. One and one-half times the minimum rate must be paid for work in excess of 48 hours.

Piecework wood cutters are now entitled to an average rate of \$17 for each working day during a calendar month (\$18 from May 1, 1971); workers hired on contract, cooks, kitchen helpers and fire rangers must be paid \$14.50 a day (\$16 from May 1, 1971); and watchmen are to receive a minimum of \$13.50 a day (\$14.50 from May 1, 1971). The minimum for all other forestry workers, formerly \$1.50 an hour, was increased to \$1.60 (\$1.75 from May 1, 1971).

The orders governing the woodworking industry (No. 6), sawmills (No. 10) and the shoe industry (No. 7) were also revised, effective October 1, 1970.

The standard workweek in the woodworking industry was reduced from 54 to 48 hours and minimum rates were increased in two stages (to \$1.30 in Zone I and \$1.20 in Zone II from October 1; \$1.35 and \$1.30 from January 1, 1971). Probationary rates were deleted.

The standard workweek in sawmills was reduced to 50 hours from 54. As in other orders, work performed over and above the standard workweek must be paid for at one and one-half times the minimum hourly rate.

The general minimum rate for sawmill employees was raised from \$1.40 to \$1.50 an hour. Workers in sawmills with five or fewer employees and workers under 18 must be paid at least \$1.35 (up 10 cents), and cooks, kitchen helpers and watchmen are entitled to a daily minimum of \$14 (formerly \$13).

Minimum rates for some classes of workers in the shoe industry

were also increased from October 1, 1970, and again from January 1, 1971.

### **Equal Pay**

The equal pay provisions of the **Alberta** Labour Act (Part VI) were re-enacted. They now prohibit the payment of a lesser rate of pay to a female employee than is paid to a male employee for "similar or substantially similar" work. The previous wording was "identical or substantially identical." An employee's wages must not be reduced in order to comply with the law.

A complaint alleging pay discrimination based on sex may now be filed with the Director of Labour Standards by the aggrieved employee's representative, as well as by the employee herself. A further change is that the Director is empowered to make an investigation in the absence of a formal complaint.

If the officer designated to make an inquiry is of the opinion that there has been a violation, he must endeavour to settle the matter. If, in his view, there has been no violation, or if no settlement is reached, he must report to the Board of Industrial Relations.

The Board may hold a hearing and may issue a directive that is binding on the parties. The directive may require the payment of wages owing for a period of up to six months. The Board's directive becomes enforceable on being filed in the Supreme Court.

### **Hours of Work**

Amendments to the **Manitoba** Employment Standards Act established a 44-hour standard workweek for all workers in the province from January 1, 1971. Previously, standard hours were 8 and 48 for men, and 8 and 44 for women. One and one-half times the regular rate must be paid for work in excess of standard hours. A provision permitting shop employees to work an additional three hours in a day on one or more fixed days in a week, without the payment of overtime, was deleted.

Limits formerly placed on the hours of overtime that could be worked by women were removed.

In **Ontario**, several special regulations governing payment of the overtime rate were changed. In the fruit and vegetable processing industry, seasonal employees must now be paid overtime pay (one and one-half times their regular rate) after 55 hours in a week, rather than after 60. Employees in the sewer and watermain construction industry are entitled to overtime pay after 48 hours, instead of after 50 hours in a week.

In **Alberta**, an order governing employees of rural municipalities engaged in road work was changed to limit hours of work to 12 in a day and 242 in a month and to require the overtime rate to be paid after these limits. Previously, these employees were excluded from hours limits. The coverage of the order was extended to apply to road maintenance and snow removal. In the highway and railway construction industry, hours of work are limited to 10 in a day and 88 in a two-week period, unless overtime is paid. The previous limits were 10 in a day and 191 in a month.

The **Alberta** order requiring employers to provide free transportation to women whose work begins or ends between midnight and 6 a.m. was extended to apply to all women workers anywhere in the province. Previously, women employed in places with a population under 2,000 were exempted. The previous exemption of nursing staff from the order no longer applies.

### **Weekly Rest-Day**

The **Alberta** weekly rest provisions were amended to require at least 24 consecutive hours of rest to be granted "in each consecutive period of seven days," instead of, as previously, "immediately following each period of not more than six consecutive days of work."

### **Annual Vacation**

The **Ontario** Employment Standards Act was amended to provide for an annual vacation with pay of two weeks after two years of employment, rather than after four years. As previously, employees are entitled to one week's vacation after their first year of employment. Vacation pay is 2 or 4 per cent, as the case may be, of the total pay of the employee in the year for which the vacation is given.

"Total pay," for purposes of determining vacation pay, is defined to include all payments made or due to an employee by an employer according to the terms of employment and in accordance with the Act and regulations, but does not include supplementary unemployment benefits or payments made to the employee at the discretion of the employer.

Non-continuous prior service may be counted for vacation purposes. If an employee has completed 12 months of non-continuous employment during any period of 36 months subsequent to the year 1966, he is entitled to a vacation. A part-time worker may qualify for vacation pay on the basis of non-continuous service.

As before, a vacation must be granted not later than 10 months after the end of the year during which it was earned. The Act now stipulates that the Director of Employment Standards may require the employer to pay vacation pay due to an employee at any time.

Vacation pay is to be deemed to be held in trust for the employee, and is a charge on the assets of the employer or his estate and has priority over all other claims.

Amendments were made to the **Nova Scotia** Vacation Pay Act, eliminating vacation pay stamps in the construction industry as of July 1, 1970, and, from the same date, removing the three-month service requirement for entitlement to vacation pay on termination of employment. A further change is that, where the employer and employee agree, the two-week vacation may be taken in two or more periods.

The **Newfoundland** Annual Vacations with Pay Act, 1969, which was proclaimed in force on June 1, 1970, was amended to provide that an employee who has not qualified for a vacation by working the required 90 per cent of regular working hours during a year and who continues to be employed is entitled to vacation pay in proportion to the time worked. The vacation pay must be paid not later than one week after the anniversary date of the workman's employment.

Vacation pay provisions in **Québec** Minimum Wage Order 9 governing forest operations were deleted. Formerly, loggers with one year of service with the same employer were entitled to a two-week vacation, with pay at the rate of 4 per cent of earnings, provided they had worked at least 175 days during the year. These workers are now entitled to the benefits laid down for workers generally by Minimum Wage Order 3 or to the benefits set out in a collective agreement by which they are governed, if higher.

## **Public Holidays**

Legislation was enacted in **Manitoba**, effective July 2, 1970, requiring pay for seven general holidays on which employees do not work. Under the former provisions of the Employment Standards Act, an employee who worked on any of these seven holidays was entitled to be paid one and one-half times his regular rate for the hours worked.

The Manitoba provisions are generally similar to those of the comparable federal, Alberta, British Columbia and Saskatchewan legislation.



An employee who does not work on a general holiday is entitled to be paid the equivalent of the wages he would have earned on that day. He must receive the pay whether or not he is on the payroll of the employer at the time of the general holiday, unless he has voluntarily terminated his employment before that day.

An employee who is required to work and does work on a general holiday is entitled to his regular pay for the holiday and, in addition, to one and one-half times his regular rate for all time worked.

The Act lists several situations in which an employee is not entitled to holiday pay. One such situation is where an employee has not worked for at least 15 days during the 30 calendar days preceding the holiday. If he works on the holiday, however, he must be paid at the overtime rate.

Special provisions are applicable to employees in a continuously operating plant, a seasonal industry (except construction), a place of amusement, a gasoline service station, a hospital, a hotel or restaurant, or in domestic service. Employees in any such employment are not entitled to overtime pay for work on a holiday if they are granted equivalent compensatory time off.

Construction workers are entitled, in lieu of general holidays, to a lump sum equivalent to 2 per cent of total gross wages, exclusive of overtime, for the calendar year.

Effective July 1, 1970, **Alberta** added Victoria Day and Thanksgiving Day to the list of paid holidays to which employees are entitled under its holiday orders, increasing the number of such holidays from five to seven. Various categories of salesmen were excluded from entitlement to public holidays.

Construction workers are entitled to a lump sum in lieu of holidays. In line with the addition of the two holidays, this sum was increased from 2 to 2.8 per cent of regular wages for the period of employment.

**Ontario** repealed a clause providing that an employee who had not earned wages from his employer for at least 12 of the 30 calendar days preceding a holiday was not entitled to overtime pay for work done on the holiday.

## **Fair Employment Practices**

Two important new Acts were passed which forbid discrimination in employment. The **Manitoba** Human Rights Act is a general human



rights code, incorporating the former Fair Employment Practices and Fair Accommodation Practices Acts. The **Ontario** Women's Equal Employment Opportunity Act, 1970, is a special Act primarily intended to eliminate discrimination against women workers on grounds of sex or marital status.

Amendments were also made to the **Nova Scotia** Human Rights Act and the **Ontario** Age Discrimination Act.

Under the **Manitoba** Human Rights Act, discrimination is prohibited, as before, on grounds of race, creed, religion, colour, nationality, ancestry or place of origin in regard to employment, including job applications, inquiries and advertisements, trade union membership, publications, and places of public accommodation. New provisions ban discrimination on any of these grounds in the renting of housing accommodation and commercial space, and in the letting of contracts that are offered to the public generally. Prohibitions in regard to trade union membership are made applicable to employers' organizations and other occupational associations. Marital status is included in the grounds on which such organizations are forbidden to discriminate in the admission of their members.

The law also forbids discrimination on the basis of sex in all areas covered by the Act except public accommodation and rental practices.

In regard to employers and employees, the Act provided for a substantial extension of coverage. The Fair Employment Practices Act did not apply to employers with fewer than five employees, non-profit organizations or domestic servants. The Human Rights Act covers all employers, including any person acting on behalf of an employer. Non-profit organizations are excluded only in any case where race, colour, creed, religion, sex, nationality, ancestry or place of origin is a reasonable occupational qualification. Domestic servants are no longer excluded.

Previously, in the sections dealing with employment practices, application forms and job advertisements, a *bona fide* occupational qualification was accepted as a justification for an exception. Such exceptions are no longer provided for.

A permanent body, the Manitoba Human Rights Commission, is created to administer and enforce the Act. It is also required to perform an educational role.

The Commission must inquire into any complaint made by an aggrieved person and may itself initiate an inquiry. The parties concerned must be given full opportunity to be heard and to be repre-

sented by counsel. Each member of the Commission is to have the powers of a commissioner under the Manitoba Evidence Act.

If the Commission finds a complaint to be justified, it must recommend to the Minister the course of action that should be followed. The Minister may then issue whatever order he deems necessary.

As previously, the Minister's order may be appealed within 10 days to a judge of the Court of Queen's Bench. The hearing is to be a trial *de novo* and the judge's decision is final.

The Act, like the earlier legislation, applies to the Crown.

The **Ontario** Women's Equal Employment Opportunity Act prohibits discrimination in employment on grounds of sex or marital status and provides for unpaid maternity leave.

The equal employment opportunity provisions of the Act apply to employers with six or more employees. Any such employer is forbidden to: (a) refuse to refer or recruit any person, (c) refuse to train, promote or transfer an employee, (d) subject an employee to probation or apprenticeship or enlarge a period of probation or apprenticeship, because of sex or marital status, unless the work or the position cannot reasonably be performed by that person or employee because of sex or marital status.

The Act makes it unlawful for an employer to establish or maintain any employment classification or category that excludes persons from employment or continued employment on grounds of sex or marital status, unless the work in question cannot reasonably be performed by persons of that sex or marital status.

It is also a contravention of the Act to maintain separate lines of progression for advancement or separate seniority lists based on sex or marital status that adversely affect any employee, unless sex or marital status is a reasonable occupational qualification for the work.

The legislation bans job advertisements, notices, signs or publications that expressly limit a position to applicants of a particular sex or marital status.

Employment agencies are forbidden to discriminate in acting upon applications for their services or in referring applicants for employment.

The Act applies to the Crown.

The Director of the Ontario Women's Bureau is responsible for the enforcement of the Act, subject to the direction of the Minister of Labour. Provision is made for enforcement through the filing of a written complaint, as in the Ontario Human Rights Code, and the Director may also make investigations on her own initiative without

receiving a formal complaint. Procedures for enforcement include an informal investigation, where a settlement is sought, a formal hearing before a board of inquiry, and, finally, an appeal to the Ontario Court of Appeal for a final decision.

A complaint may be made to the Director by any person who has reasonable grounds for believing that the Act has been contravened. The Director may, however, refuse to file a complaint made by a person other than the aggrieved person in regard to discrimination in employment (s. 4) or in regard to maternity leave (s. 9) unless the person concerned consents.

Amendments made to the **Nova Scotia** Human Rights Act narrowed the exemption allowed for religious and ethnic organizations operated primarily to foster the welfare of a religious or ethnic group. The Act now applies to these organizations except in dealings between them and persons of the same religion or ethnic origin.

The **Ontario** Age Discrimination Act, which prohibits discrimination because of age in employment and job advertising against persons between the ages of 40 and 65, was amended to extend its coverage to the provincial Government and its agencies.

### **Notice of Termination**

The **Newfoundland** Employment (Notice of Termination) Act, passed in 1969, requiring employers and employees to give notice of termination of employment equal to one regular pay period, was proclaimed in force on June 1, 1970.

In enacting legislation in this field (Part 1A of the Employment Standards Act), **Ontario** became the sixth province to lay down statutory notice requirements in regard to individual termination of employment and the second after Québec to require notice of mass layoffs. Part 1A goes into force on January 1, 1971. Part 1A is of wide application, applying to employers generally, with the exception of the construction industry, and to the Crown and its agencies.

Individual notice required varies from one to eight weeks, depending on the employee's period of employment, as indicated below.

#### **Period of Employment**

3 months – 2 years  
2 – 5 years  
5 – 10 years  
10 years or more

#### **Notice Required**

1 week  
2 weeks  
4 weeks  
8 weeks

Employment before January 1, 1971, is to be counted in determining the period of employment for purposes of notice.

The group notice requirement applies when an employer terminates the employment of 50 or more persons within four weeks or less. The minimum notice that must be given by the employer to the employee and to the Minister of Labour in writing is: 8 weeks where the employment of 50-199 persons is to be terminated in any four-week period, 12 weeks for 200-499 persons, and 16 weeks where 500 or more persons are involved.

Where not more than 10 per cent of the persons employed in an establishment are to be dismissed in a four-week period (and these total 50 or more persons), the requirements for notice in case of individual dismissal apply, unless the termination is caused by the permanent discontinuance of all or part of the employer's business.

In a case of collective dismissal, the employer is required to cooperate with the Minister during the period of notice in any action or program aimed at re-establishing the dismissed workers in employment.

In order to provide some protection to the employer against precipitate terminations of employment during the period of notice, an employee to whom collective notice has been given is required to give written notice of intention to quit his job. One week's notice is required if the employee has had less than two years' service, and two weeks if he has been employed for two years or more.

An employer may terminate a worker's employment without notice, if he notifies him in writing to that effect and pays him, as compensation in lieu of notice, the pay that he would have received had he worked regular hours during the period of notice. Compensation payable in lieu of notice is deemed wages for purposes of the Act.

Certain exceptions are provided for. An employer is not required to give notice to a person employed for a definite term or task, in case of temporary layoffs (as defined), in case of layoffs or terminations of employment resulting from a strike or lockout at the employee's place of employment, or where a person has been guilty of wilful misconduct, disobedience or wilful neglect of duty not condoned by the employer.

Under the **Québec** legislation requiring employers to give advance notice of collective dismissals to the Minister of Labour and Manpower, a general regulation was issued, effective March 7, 1970, setting out in detail an employer's obligations under the law. The



required periods of notice, varying with the number of workers about to be dismissed, are as follows:

10 to 100:	2 months
100 to 300:	3 months
300 and over:	4 months

An employer (other than an employer governed by the Construction Industry Labour Relations Act) who proposes to dismiss 10 or more employees within a period of two months must notify the Minister in advance unless (a) the undertaking is of a seasonal or intermittent nature, or (b) employees are to be dismissed for an indefinite period of less than six months. "Employee" does not include a director or officer of a corporation or a seasonal or casual worker. The legislation does not apply to establishments involved in a strike or lockout.

Where, because of a fortuitous or unforeseeable event, an employer is unable to give the prescribed advance notice, he must inform the Minister as soon as he can, and give proof that it was impossible to foresee the necessity for a collective dismissal. In such a case, the Minister, in consultation with the employer, will determine the period of notice that must be given.

The employer is required, at the request of the Minister, to participate immediately in the establishment of a committee on reclassification of employees. The certified trade union or the employees (if there is no union) must be equally represented on the committee. The employer must contribute funds to the committee to the extent agreed upon by the parties.

## **Maternity Protection**

The **Ontario** Women's Equal Employment Opportunity Act, 1970, prohibits dismissal for pregnancy and provides for unpaid maternity leave of a minimum duration of 12 weeks. These provisions, which went into force on December 1, 1970, apply to employers with 25 or more employees.

If an employee has been in the service of her employer continuously for at least one year, she is entitled to maternity leave benefits. On production of a medical certificate showing the expected date of confinement, the employee must be granted a period of leave of up to six weeks preceding the specified date and extending to the actual date of delivery.



The employee may be required to go on maternity leave at any time, however, where her employer considers that her duties cannot reasonably be performed by a pregnant woman or that her performance is materially affected by her pregnancy. On the request of the employer, the employee must produce a doctor's certificate.

The Act provides for six weeks' leave following confinement. During this period the employee may not resume work and it is unlawful for the employer to permit her to work, unless a shorter period of postnatal leave is recommended in writing by a medical practitioner.

On her return to work the employee must be reinstated without loss of seniority or accrued benefits.

The maternity leave provisions are enforced through the filing of a complaint with the Director of the Ontario Women's Bureau or through investigations of regular inspection staffs. A complaint may be filed by any person who has reasonable grounds for believing that the Act has been contravened but the Director may refuse to accept the complaint unless the person concerned consents.

## **Workmen's Compensation**

Six of the provincial Workmen's Compensation Acts were amended.

In **British Columbia**, the maximum annual earnings on which compensation is based were increased from \$6,600 to \$7,600, effective January 1, 1971. The increase results from a formula in the Act that provides for an automatic increase of \$1,000 in the ceiling when not less than 20 per cent of the workmen employed in industries under the Act earn more than \$1,000 in excess of the existing maximum, and not less than 45 per cent earn more than the maximum.

Dependants' allowances were increased in **Nova Scotia, Prince Edward Island and Saskatchewan**.

In **Nova Scotia**, a widow or invalid widower is now entitled to receive \$100 a month instead of \$90; a child under 18, \$38 instead of \$30; and an orphan under 18, \$45 instead of \$35.

In **Saskatchewan**, the maximum funeral allowance was increased from \$250 to \$300. Provision was made for payment of benefits, at the discretion of the Workmen's Compensation Board, to a child attending school to the age of 21, or to the end of the school term in which that age is reached, if later. Previously, benefits were payable to the age of 21.

In **Prince Edward Island**, the maximum burial allowance was

increased from \$300 to \$400, and the lump sum payable to a widow or invalid widower raised from \$200 to \$400.

In **British Columbia**, where benefits are increased at the beginning of each year by 2 per cent for every 2 per cent rise in the Consumer Price Index, a further 6.12 per cent increase took effect on January 1, 1970. Benefits rose by 2 per cent from January 1, 1971.

In **Québec**, where benefits are also tied to the cost of living, subject to a maximum increase of 2 per cent a year, increases of 2 per cent went into force on January 1, 1970, and January 1, 1971.

The **Manitoba** provisions governing payment of compensation for permanent partial disability were revised, and the **Saskatchewan** Act was amended to provide for payment of compensation for temporary partial disability on the basis of loss of earnings. In **Nova Scotia**, a minimum payment of \$150 a month, instead of \$125, was established for permanent total disability. In **British Columbia**, minimum payments for total disability rose in line with the rise in the Consumer Price Index.

### Territorial Ordinances

The **Yukon Territory** and **Northwest Territories** minimum wage rates were raised from \$1.25 to \$1.50 an hour, the former on May 1, 1970, and the latter on September 1, 1970.

The Workmen's Compensation Ordinances of **both Territories** were amended to raise the ceiling on annual earnings from \$5,600 to \$6,600. The new maximum was made applicable with respect to accidents occurring after April 1, 1970, in the Yukon and after January 1, 1971, in the Northwest Territories. Lower ceilings are applicable with respect to earlier accidents. The minimum compensation payable for total disability, either permanent or temporary, was raised by \$5 to \$40 a week, or average weekly earnings, if less.

In the **Northwest Territories** amendments, all of which are to take effect from January 1, 1971, dependants' allowances were increased. In respect of accidents occurring after January 1, 1971, an allowance of up to \$125 for the transportation of the workman's body, a widow's pension of \$110 a month, and a payment of \$55 a month to a dependent invalid child must be paid.

## STATUTORY SCHOOL-LEAVING AGE

In all provinces there is a school attendance law which makes it compulsory for children between specified ages to attend school. Exceptions are permitted where a child is unable to attend because of illness or other unavoidable cause and, in most provinces, because of distance from school (where no conveyance is provided) or lack of school accommodation. Some Acts stipulate that a child may be excused from attendance before reaching the statutory school-leaving age if he has already attained a specified standing. An exception may also be granted in special cases, if it appears to be in the interest of the child that he should be excused from school attendance or where the child is certified to be under efficient instruction elsewhere.

In Manitoba, a child over 15 may be permitted to leave school on production of a certificate signed by his parent or guardian, the school attendance officer and the superintendent of schools or, if there is no superintendent, by the school inspector.

In six provinces, a child may be exempted from school attendance for a temporary period on the application of his parent or guardian, if his services are required for necessary farm or home duties or for employment. The New Brunswick Schools Act states that the Minister of Education may issue a certificate relieving a child from school attendance for a maximum period of six weeks in each school term, on the written application of the child's parent, if he agrees with the reasons for such application. No such exemptions are provided for in Alberta, British Columbia and Ontario.

The school-leaving age in each province and the provisions for exemption for employment are shown in the table below. The employment of children of school age during school hours is forbidden unless a child is excused for any of the reasons provided in the Act.

## Statutory School-Leaving Ages and Work Exemptions

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### *Newfoundland\**

**15.** Exemption: With certificate for a stated period, but if child is under 12 for not more than 2 months in a school year, unless with approval of Minister<sup>1</sup>.

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### *Prince Edward Island*

**15,** unless has completed courses in public school. Attendance required for only 75% of term except in Charlottetown and towns where 90% attendance is required. Exemption: (1) for poverty; (2) if 12, for not more than 6 weeks in year<sup>2</sup>.

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### *Nova Scotia\**

**16,** cities and towns, **14** elsewhere, but **15** or **16** may be fixed locally. Exemption: (1) if 12, for not more than 6 weeks in year<sup>3</sup>; (2) if 13, with employment certificate. Medical certificate may be required.

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### *New Brunswick*

**15,** unless child has passed grade 12. Exemption: Not more than 6 weeks in each school term<sup>4</sup>.

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### *Québec\**

**15.** Exemption: Not more than 6 weeks in year<sup>5</sup>.

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### *Ontario\**

**16,** unless has completed secondary school or equivalent.

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### *Manitoba\**

**16.** Exemption: Over 12, not more than 4 weeks in year<sup>6</sup>.

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### *Saskatchewan*

**16,** unless has passed grade 8. Exemption<sup>1</sup>.

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### *Alberta*

**16.**

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### *British Columbia*

**15,** unless has completed course at nearest public school and transport to higher school not provided.

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\*Child reaching school-leaving age required to attend school to end of school year in Newfoundland, Nova Scotia, Ontario and Québec, and to end of term in Manitoba, if age reached in that term.

<sup>1</sup> If services needed for maintenance of self or others.

<sup>2</sup> If services needed in husbandry or other necessary employment.

<sup>3</sup> If services needed in farming, home duties or other necessary employment.

<sup>4</sup> If Minister agrees with the reasons for the parent's application for exemption.

<sup>5</sup> If services needed in farming, home duties, maintenance of self or others.

<sup>6</sup> If services needed in husbandry or home duties.



## MINIMUM AGE FOR EMPLOYMENT

The Canada Labour (Standards) Code and regulations do not set an absolute minimum age for employment, but lay down conditions under which young persons under 17 years may be employed in federal undertakings. A young person under 17 may be employed in a federal industry only if (1) he is not required to be in attendance at school under the laws of his province; (2) the work in which he is to be employed is not likely to injure his health or endanger his safety; and (3) he is not employed underground in a mine or in work prohibited for young workers under the Explosives Regulations, the Atomic Energy Control Regulations or the Canada Shipping Act.

Employment of young workers under 17 is subject to two further conditions: (4) that an employee under 17 is not required or permitted to work between 11 p.m. and 6 a.m.; and (5) that he is paid not less than \$1.40 an hour, unless he is undergoing on-the-job training under an approved training plan.

The Canada Shipping Act fixes a minimum age of 15 for employment at sea.

In the provincial jurisdictions, a minimum age for employment is set by mines Acts and a variety of other provincial legislation (child labour laws, the Alberta Labour Act, the Manitoba Employment Standards Act, factory or industrial safety laws and minimum wage orders). No minimum age has been established for employment in agriculture.

Four provinces—British Columbia, Nova Scotia, Prince Edward Island and Newfoundland—have a child labour law prohibiting employment below a specified age. The Newfoundland Employment of Children Act, 1968, is to go into force on proclamation.

The British Columbia Control of Employment of Children Act forbids employment of a child under 15 in specified industries or occupations, unless a permit is obtained from the Minister of Labour. The Act applies to manufacturing, shipbuilding, electrical works, logging, construction, catering, public places of amusement, the mercantile industry, shoeshine stands, automobile service stations, road transport and the laundry, cleaning and dyeing industry.

Under the Nova Scotia Employment of Children Act, employment of a child under 14 is forbidden in manufacturing, shipbuilding, electrical works, the forest industry, garages and service stations, hotels, restaurants and the operation of elevators, theatres, dance halls, shooting galleries, bowling alleys and billiard and pool rooms. The Act does not apply to family undertakings. A child under 14 may not work



more than three hours on a school day unless he has an employment certificate issued under the Education Act. Time worked in a day or time worked plus school hours on a school day may not exceed eight hours. Work is forbidden between 10 p.m. and 6 a.m. The Nova Scotia Construction Safety Act sets a minimum age of 16 years for employment in construction.

The Prince Edward Island law (the Minimum Age of Employment Act) sets a minimum age of 15 years for employment in mining, manufacturing, shipbuilding, electrical works, construction and transport by road, rail or inland waterway.

The Newfoundland Act prohibits the employment of children under the age 16, except in family undertakings. There is provision in the Act, however, for the making of regulations by the Lieutenant Governor in Council permitting the employment of children under 16 in any specified occupation, subject to such conditions as may be prescribed.

The Act lays down the conditions under which a child under 16 may be employed by his parent or guardian in a family undertaking. He may not be employed to do any work that is or may be harmful to his health or normal development or that may prejudice his attendance at school or his capacity to benefit from school instruction. He may not work more than eight hours in a day or more than three hours on a school day. Time spent at school and at work may not total more than eight hours. Work between the hours of 9 p.m. and 8 a.m. is prohibited.

Two other provinces — Alberta and Manitoba — have fixed a minimum age for most employment in their labour code.

In Alberta, a person under 15 may not be employed in any employment except with the written consent of the parent or guardian and the approval of the administrative board. As the school-leaving age is 16 and no exemptions are allowed for employment, children under 16 may work only when school is not in session.

In Manitoba, a child under 16 may not be employed in a factory. For any other employment, the minimum age is 16, unless a written permit is obtained from the Minister of Labour.

In the other provinces, a minimum age for a wide field of employment is established in factory or industrial safety laws and, in Saskatchewan, a minimum wage order.

In New Brunswick, no child under 16 may be employed in any place of employment except a private home, unless he has written authorization from the Minister of Labour.

In Ontario, the minimum age for employment in a factory is 15

years. A child of 14 may be employed in a shop, office or office building, restaurant, bowling alley, pool room or billiard parlor if the work is not likely to endanger his safety.

The Ontario Construction Safety Act fixes a minimum age of 16 years but permits the employment of 15-year-olds in such parts of a construction project as may be designated by the regulations. No provision has been made in the regulations to date for the employment of 15-year-olds. A minimum age of 16 has been established for the logging industry.

As the school-leaving age in Ontario is 16 years and no exemptions are now permitted for employment, the above-mentioned minimum ages which are below the age of 16 apply only to such time as school is not in session. No child under 16 may be employed in any employment during school hours.

In Québec, the minimum age for employment in an industrial or commercial establishment is 16 years. The same minimum age applies to employment in hotels, restaurants, theatres and other places of amusement and to the employment by a department store or telegraph company of boys or girls as messengers. Children of 15 years of age may be employed in any of these workplaces during school vacations but only with a permit from the inspector.

Boys and girls under 16 are forbidden to sell papers or carry on any street trade unless they can read and write fluently, and such work may not be carried on after 8 p.m.

In Saskatchewan, no person under 16 may work in a factory (which term includes a coal mine, potash mine and sodium sulphate mine and works), hotel, restaurant, educational institution, hospital or nursing home.

Mines Acts in all provinces but Prince Edward Island (which has no mining operations) fix the minimum age for employment in mines. The minimum age for employment in mines, factories, shops, hotels and restaurants is set out in the table below. In most provinces, as indicated above, the legislation (apart from mines Acts) covers certain other classes of establishments as well as those set out in the table.

## Minimum Age for Employment

Province	Establishment			
	Mines	Factories	Shops	Hotels Restaurants
Newfoundland	16, above ground <sup>1</sup> 18, below	16 <sup>1</sup>	16 <sup>1</sup>	16 <sup>1</sup>
Prince Edward Island	—	15	—	—
Nova Scotia	Coal: 18, below Metal: 16, above 18, below	14 <sup>2</sup>	—	14 <sup>2</sup>
New Brunswick	Coal: 16, above 16, below Metal: 16, above 18, below	16 except with permit	16 except with permit	16 except with permit
Québec	16, above 18, below	16 <sup>3,4</sup>	16 <sup>3</sup>	16 <sup>3</sup>
Ontario	16, above 18, below	15 <sup>5</sup>	14 <sup>5,6</sup>	14 <sup>5,6</sup> (restaurants only)
Manitoba	16, above 18, below	16	16 except with permit	16 except with permit
Saskatchewan	Coal: 16 Metal: 16, above 18, below	16	—	16
Alberta	17, above 17, below	15 except with permit <sup>5</sup>	15 except with permit <sup>5,7</sup>	15 except with permit <sup>5</sup>
British Columbia	18, below <sup>8</sup>	15 except with permit	15 except with permit	15 except with permit

<sup>1</sup> Except in family undertakings. Act not yet proclaimed in force.

<sup>2</sup> 16 during school hours in cities and towns except with employment certificate.

<sup>3</sup> The Government may exempt establishments from the Act.

<sup>4</sup> For certain dangerous occupations, the minimum age is 18 for boys; for others, it is 16 for boys and 18 for girls.

<sup>5</sup> A child under 16 may not be employed during school hours.

<sup>6</sup> A child of 14 may be employed if the work is not likely to endanger his safety.

<sup>7</sup> Minimum age of 12 years in certain occupations, including work as clerk, delivery boy or delivery girl in retail store, with written consent of parent and subject to restrictions on hours (2 hours on a school day, 8 hours on any other day) if not injurious to life, limbs, health, education or morals.

<sup>8</sup> A boy who has reached the age of 17 may be employed underground for the purpose of training.

## MINIMUM WAGES

Minimum wage laws are in force in the federal jurisdiction and in all ten Canadian provinces.

The federal legislation is Part II of the Canada Labour (Standards) Code. The Code sets a minimum rate of \$1.65 an hour for employees in the federal industries. This rate applies to workers of both sexes who are 17 years of age and over, whether employed on a full-time or part-time basis. Young persons under 17, who may be employed only under conditions laid down by the regulations, must be paid not less than \$1.40 an hour.

Employees who are paid on other than a time basis, such as pieceworkers and persons paid a mileage rate, are required to be paid the equivalent of the minimum wage.

An employer who is providing on-the-job training to increase the skill or proficiency of his employees, in accordance with conditions prescribed by the regulations, may be exempted from paying the minimum wage to such employees during the whole or part of the training period.

The Code provides also for the payment of a wage lower than the minimum rate to handicapped employees under a system of individual permits.

In Alberta, Manitoba, Ontario and Saskatchewan, minimum wage legislation is part of the province's labour code—the Alberta Labour Act, Part II; the Manitoba Employment Standards Act, Part II; the Ontario Employment Standards Act, Part IV; the Saskatchewan Labour Standards Act, Part III. The other provinces have individual minimum wage laws.

The minimum wage legislation in each of the provinces authorizes a minimum wage board or other labour board or the Lieutenant Governor in Council to recommend or establish minimum rates of wages. Minimum rates are imposed by minimum wage orders or, in Ontario and Manitoba, by general regulations made under each province's Employment Standards Act.

Except in two provinces, the Acts do not specify how the minimum wage is to be determined. In Manitoba, the board is directed to take into consideration and be guided by "the cost to an employee of purchasing the necessities of life and health." The Québec Minimum Wage Commission is directed to consider "competition from outside countries or from the other provinces and the economic conditions peculiar to the various regions of the province."



The practice of boards is to fix a general basic wage, taking into account the cost of living, economic conditions and other relevant factors. The minimum rate is set mainly for the protection of the unorganized and unskilled worker. It constitutes a floor above which trade unions may negotiate with management for a higher standard. The boards hold public hearings and make extensive inquiries before minimum wage orders are put into effect. Minimum wage orders are reviewed fairly frequently.

The boards that fix minimum wages are composed of members who represent the interests of employers and employees and in some cases the general public, with an impartial chairman, frequently an officer of the Department of Labour. In British Columbia at least one member of the board must be a woman, and in Nova Scotia and Saskatchewan there must be two women on the board. There is also a woman on the Alberta board, although this is not required by statute. There are two women on the Manitoba board, representing employers and employees, respectively.

In most provinces, minimum wage orders now cover practically all employment. Domestic service in private homes is excluded in all provinces. Farm labour is also excluded in all provinces except Newfoundland. In Ontario, this exclusion is limited to farming proper, certain farm-related occupations such as landscape gardening, nursery operations and veterinary services being covered. A few other classes of workers are excluded in most jurisdictions. Typical exclusions are supervisory and managerial employees, certain categories of employed students, registered apprentices, certain categories of salesmen, and members and students of professions.

In Alberta, British Columbia, Manitoba, Newfoundland, New Brunswick, Ontario and Prince Edward Island, minimum rates apply throughout the province. In Nova Scotia, Québec and Saskatchewan, there are regional differentials in minimum rates, the provinces being divided into two zones for minimum wage-setting purposes.

In Nova Scotia, Zone I consists of Halifax-Dartmouth, Sydney and New Glasgow and surrounding areas (ten-mile radius) and Truro, Amherst, Yarmouth, Antigonish and Port Hawkesbury and surrounding areas (five-mile radius); Zone II takes in the rest of the province.

In Québec, Zone I comprises the Greater Montreal area, consisting of the Island of Montreal, Île Jésus, Île Bizard and the Chambly and Taillon electoral districts; Zone II takes in the remainder of the province. The zone system will be abolished on May 1, 1971, when province-wide rates go into effect under General Order 4, and the



orders governing service establishments and hotel trade establishments.

In Saskatchewan, rates are set for the ten cities and a five-mile radius of each and the rest of the province. The ten cities are Estevan, Melville, Moose Jaw, North Battleford, Prince Albert, Regina, Saskatoon, Swift Current, Weyburn and Yorkton.

Minimum wage orders apply to both men and women, and in seven provinces they set the same rate for both sexes. In Newfoundland, Nova Scotia and Prince Edward Island, rates are lower for women than for men.

In all provinces general orders are issued setting hourly rates that apply to most workers in the province (see Table 1, page 41). In seven provinces these general orders are supplemented by special orders, applying to a particular industry, occupation or class of workers and in some cases taking into account a special skill.

British Columbia, which originally had a separate minimum wage order for each industry or occupation, has been consolidating its orders. Twenty-two special orders still remain; the minimum rates set by these orders range from \$1 an hour for such employees as truck drivers and patrolmen to \$2.50 an hour for automotive mechanics, construction industry tradesmen, and machinists, moulders and refrigeration and sheet-metal mechanics.

Québec has seven industry orders, governing hotel trade establishments, service industries, the shoe industry, the woodworking industry, sawmills, forest operations, and municipal corporations and school boards. The rates set by some of these special orders (for example, the hotel trade and service industries) are lower than the general rates; the rates in other orders, such as the forestry order, are higher than the general minimum.

The other provinces set only a few special rates. Nova Scotia has established rates for employees in beauty parlors and province-wide rates for logging and forest operations and for road building and heavy construction. Province-wide rates for construction, mining and primary transportation and for logging, forest and sawmill operations have been set in New Brunswick and for construction, well-drilling, logging and lumbering, and truck drivers in Saskatchewan. The main special rate in Ontario applies to construction (\$1.90 from April 1, 1971). A weekly rate has been set in Alberta for commercial travellers.

In seven provinces the orders provide that inexperienced workers may be employed during a specified period at a rate below the regular minimum. These rates may be applicable generally or to a particular occupation. In three provinces these rates apply to only one occupation.

The learning period varies in length from one to nine months. (See Table 2, page 42.)

Provision is also made in the legislation of almost all jurisdictions for the employment of handicapped workers at rates below the established minimum either under a system of individual permits or by the setting of a special rate.

In all provinces except British Columbia and New Brunswick, the orders set special minimum rates for young workers or for young workers in certain categories, such as newsboys or messengers. Student rates are set in three provinces. In Prince Edward Island, the general minimum wage order for men excludes persons under 18. (See Table 3, page 42.)

Most general orders contain a "daily guarantee" or "call-in pay" provision requiring an employee who is called to work to be paid for a certain number of hours, even if he is not put to work or if he works for a shorter period. This two-, three- or four-hour minimum period, as the case may be, must be paid for at the minimum rate, except in British Columbia, where payment is required at the employee's regular rate of pay.

Tipping is dealt with specifically in the Alberta, Newfoundland, New Brunswick, Nova Scotia, Ontario and Québec legislation (and also in the federal labour code). These provisions make it clear that gratuities are not to be counted as part of wages. Québec orders state that tips are the exclusive property of the employee, and the employer is not allowed to deduct them or to consider them as part of the wages paid, even with the employee's consent. In Prince Edward Island, "wages" are defined in the Minimum Wage Acts as payment by an employer to an employee, thus excluding tips. Boards in other provinces take the position that gratuities are not to be regarded as wages.

The frequency and method of wage payment are also dealt with in the minimum wage legislation of several jurisdictions. The federal labour code, the minimum wage legislation of British Columbia and Québec, an order of the Minimum Wage Board under the Saskatchewan Labour Standards Act, the Manitoba Employment Standards Act, the Ontario Employment Standards Act and the Alberta Labour Act lay down requirements regarding the furnishing of pay statements to employees.

In these jurisdictions, subject to the exceptions noted below, the employer is required to give each employee on each regular payday a statement showing specified particulars, such as the number of hours the employee is being paid for, wage rate, details of deductions, and net

earnings. An employer may be exempted from this requirement in the federal jurisdiction by order of the Minister of Labour and in Saskatchewan by permit from the Chairman of the Minimum Wage Board.

In Manitoba, it is mandatory for an employer to give his employees pay statements on each payday but, if wages and deductions are the same over a period of time, a pay statement may be given at the beginning of the period and each time there is a change in wages or deductions. An earnings statement must be given, however, at the request of the employee or at the direction of the Minister of Labour.

Under annual vacations legislation in New Brunswick and Prince Edward Island, an employer must furnish an earnings statement for any specified period, if his employee requests it.

Requirements are also laid down in minimum wage orders regarding the provision and maintenance of uniforms, where these are required to be worn.

There are provisions in the orders of most provinces (and also in the federal labour code) relating to charges or deductions for board and lodging, where furnished by the employer to the employee.

In some jurisdictions (federal, Alberta, Newfoundland, New Brunswick, Nova Scotia, Prince Edward Island and Québec), the orders set limits on the amounts by which such charges may reduce the minimum wage. The Ontario orders fix the maximum amounts at which meals or a room or both may be valued for minimum wage purposes, where board and lodging are provided as part of wages. In the other provinces, the orders set the maximum charges or deductions that may be made.

The Saskatchewan order containing special provisions applicable to hotels, restaurants, educational institutions, hospitals and nursing homes specifies the maximum deductions that may be made for board and lodging, but states that these limits are not to apply with respect to employees of educational institutions, hospitals, or nursing homes who are paid more than \$50 a week.

Maximum charges or deductions are not set in British Columbia orders. If the board finds that services are inadequate or charges are excessive, it may specify the maximum charges that may be made.

The maximum permitted charges or deductions for board and/or lodging under the Canada Labour (Standards) Code and the provincial minimum wage orders are as follows:

Jurisdiction	Meals		Lodging		Board and Lodging
	single	per week	per day	per week	per week
Federal .....	50¢		60¢		
Newfoundland .....	40¢	\$7		\$3	\$10
Prince Edward Island ..	40¢	\$7		\$3	\$10
Nova Scotia .....	40¢	\$7		\$3	\$10
New Brunswick .....	50¢	\$7.50		\$2.50	\$10
Québec .....	60¢			\$5	\$17
Ontario .....	65¢	\$13.50		\$6.50	\$20
Manitoba .....	50¢			\$5	
Saskatchewan .....	50¢ or \$1.50 per day <sup>1</sup>		50¢ <sup>1</sup>		
Alberta .....	45¢	\$8	60¢	\$4	

<sup>1</sup> Applies to hotels, restaurants, educational institutions, hospitals and nursing homes (see preceding page).

The above charges apply generally or to the classes of workplaces indicated. Maximum deductions in construction, mining, primary transportation, logging and sawmill operations in New Brunswick are \$2.10 a day for board and lodging or 70 cents for a single meal. In sawmill and forest operations in Québec deductions may not exceed \$1.95 a day for board and lodging or 65 cents for a single meal. Charges or deductions for board and lodging in logging and forest operations may not exceed \$2 a day in Nova Scotia or \$2.50 a day in Saskatchewan. In service establishments in Québec, not more than 20 per cent of an employee's minimum wage may be deducted for heated lodging and not more than 15 per cent of the minimum wage for unheated lodging provided by the employer for the employee.

## 1. General Minimum Wage Rates for Experienced Adult Workers\*

Jurisdiction	Rate per Hour
Federal	Employees 17 and over: \$1.65
Newfoundland	Employees over 18: \$1.25, men \$1, women
Prince Edward Island	\$1.25, men over 18 95¢, women
Nova Scotia	Employees 18 and over: men: \$1.30, Zone I \$1.20, Zone II women: \$1.10, Zone I \$1, Zone II Rates to be increased by 5 cents for men and 10 cents for women on July 1
New Brunswick	\$1.15
Québec	Employees 18 and over: \$1.40, Zone I \$1.35, Zone II Province-wide rate of \$1.45 on May 1, increasing to \$1.50 on November 1 <sup>1</sup>
Ontario	\$1.50 \$1.65 on April 1 <sup>2</sup>
Manitoba	Employees 18 and over: \$1.50
Saskatchewan	Employees 17 and over: \$1.25, ten cities \$1.15, rest of province
Alberta	Employees 18 and over: \$1.55
British Columbia	\$1.50

\*For description of zones, see page 36

<sup>1</sup>Québec — In hotel trade establishments the rates are \$1.20 in Zone I and \$1.15 in Zone II, with a province-wide rate of \$1.25 effective on May 1, increasing to \$1.30 on November 1.

<sup>2</sup>Ontario — Increase for assistant bell captains, bellmen, doormen, waiters, bus boys and waitresses in hotel, motel, tourist resort, restaurant and tavern industry becomes effective on October 1.



## 2. Minimum Rates and Learning Periods for Inexperienced Workers\*

Jurisdiction	Hourly Rates and Learning Periods
Prince Edward Island	During probationary period of 30 days: \$1.20, men 90¢, women (5 cents an hour less than the minimum rate)
New Brunswick	During first 4 months of employment: \$1.05 <sup>1,2</sup> (10 cents an hour less than the minimum rate)
Ontario	During first month of employment: \$1.40 (\$1.55 from April 1) <sup>3</sup>
Manitoba	Employees 18 and over: during first 3 months of employment: \$1.35 during second 3 months: \$1.45

\*No provision for lower rates for learners in British Columbia, Newfoundland and Saskatchewan. In the remaining provinces, learners' rates are set only for special industries: in Nova Scotia, beauty parlors; in Québec, the shoe industry; and in Alberta, female workers in the garment industry.

<sup>1</sup> Not more than 20% of total number of employees in an establishment may be employed as learners. In Ontario, only employees who have no previous experience in the work may be paid learners' rates.

<sup>2</sup> New Brunswick — \$1.15 during the first 3 months of employment in construction, mining, and primary transport, and in logging, sawmill and forest operations.

<sup>3</sup> Ontario — The increase for assistant bell captains, bellmen, doormen, waiters, bus boys and waitresses in the hotel, motel, tourist resort, restaurant and tavern industry becomes effective October 1.

## 3. Minimum Rates for Young Workers and Students\*

Jurisdiction	Rate per Hour
Federal	Employees under 17: \$1.40
Newfoundland	Employees 16-18: 85¢, males 65¢, females
Prince Edward Island	Students working minimum of 28 hours in a week or full-time during period May 15—September 15 or during Christmas or Easter vacations: \$1, males 90¢, females (5 cents an hour less than the adult rate)

Nova Scotia	<p>Employees 14-18<sup>1</sup>:</p> <p>males: \$1.10, Zone I 95¢, Zone II</p> <p>females: 90¢, Zone I 75¢, Zone II</p> <p>To be increased by 5 cents for males and 10 cents for females July 1</p>
Québec	<p>Employees under 18:</p> <p>General Ordinance: \$1.30, Zone I \$1.25, Zone II</p> <p>Hotel trade \$1.10, Zone I establishments: \$1.05, Zone II</p> <p>Service establishments: \$1.15, Zone I \$1.10, Zone II</p> <p>Municipal corporations and school boards: \$1.25</p> <p>Sawmills: \$1.35</p> <p>Woodworking industry: \$1.25, Zone I \$1.20, Zone II</p> <p>Province-wide rates of \$1.35 (general), \$1.15 (hotel trade establishments) and \$1.20 (service establishments) on May 1; all to be increased by 5 cents November 1.</p>
Ontario	<p>Persons under 18 employed as messengers, delivery boys, newsvendors, pin setters, shoeshine boys, golf caddies, in golf pro shops, or in municipal public libraries:</p> <p>\$1.10 (\$1.25 from April 1)</p> <p>Students employed 28 hours or less in a week or during school holidays<sup>2</sup>:</p> <p>\$1.15 (\$1.30 from April 1)</p>
Manitoba	<p>Employees under 18:</p> <p>\$1.25</p>
Saskatchewan	<p>Employees under 17:</p> <p>\$1.10, ten cities and 5-mile radius \$1.05, rest of province</p>
Alberta	<p>Employees under 18:</p> <p>\$1.40 (15 cents an hour less than the adult rate)</p> <p>Students employed part-time:</p> <p>18 and over: \$1 Under 18: 85¢</p>

For description of zones, see page 36. British Columbia and New Brunswick have no special rates for young workers or students.

<sup>1</sup> Nova Scotia — Except with approval of Minimum Wage Board, no more than 25% of employer's total work force may be underage employees (14-18). In a hotel, restaurant, motel or tourist resort, June 15 - September 15, up to 60% of employees may be underage workers.

<sup>2</sup> Ontario — Student rates do not apply in the ambulance, construction or taxi industries. In the hotel, motel, tourist resort, restaurant and tavern industry, they may be paid only to persons employed as assistant bell captains, bellmen, doormen, waiters, bus boys and waitresses if they are employed less than 28 hours in a week, or during period from May 15 to September 15, or during school holidays; the increase for these persons goes into effect on October 1.

## 4. Overtime Rates\*

Jurisdiction	Overtime Rate
Federal	1½ times the regular rate after 8 or 40 hours
Newfoundland	1½ times the minimum rate after 48 hours <sup>1</sup>
Prince Edward Island	1½ times the minimum rate after 48 hours (after 48 or normal hours, if less, for women) <sup>2</sup>
Nova Scotia	1½ times the minimum rate after 48 hours <sup>3</sup>
New Brunswick	1½ times the minimum rate after 48 hours <sup>4</sup>
Québec	1½ times the minimum rate after 48 hours; double the minimum rate after 60 hours <sup>5</sup>
Ontario	1½ times the regular rate after 48 hours <sup>6</sup>
Manitoba	1½ times the regular rate after 8 or 44 hours
Saskatchewan	1½ times the regular rate after 8 or 44 hours (after 9 or 44 in a 5-day week); after 8 or 48 hours in shops and offices in centres with under 500 population and in hotels and restaurants in centres other than cities
Alberta	1½ times the regular rate after 9 or 44 hours
British Columbia	1½ times the regular rate after 8 or 40 hours

\*The overtime rates set out in the table are fixed by minimum wage orders, except in the federal jurisdiction, Manitoba, Ontario and Saskatchewan. In these cases, the overtime rates are established by the hours and overtime provisions of the labour code (the Canada Labour (Standards) Code, Part I; the Manitoba Employment Standards Act, Part III; the Ontario Employment Standards Act, Part III and regulations; and the Saskatchewan Labour Standards Act, Part II and regulations).

<sup>1</sup> Newfoundland — Not applicable to workers employed in farming. Shop employees governed by the Hours of Work Act, 1½ times the regular rate after 8 hours in a day or 40 hours in a week.

<sup>2</sup> Prince Edward Island — Seasonal food processing, 1½ times the minimum rate after 60 hours; women employed by employers in this industry who do not operate for more than 5 weeks in a year are not entitled to overtime pay; road building, 1½ times the minimum rate after 96 hours in any two consecutive weeks; women in restaurant and tourist resort industries June 15 – September 15 are not entitled to overtime pay.

<sup>3</sup> Nova Scotia — Road building and heavy construction and employees in the transport industry who are required to be away from their home base overnight, 1½ times the minimum rate after 96 hours in two weeks.

<sup>4</sup> New Brunswick — Logging, forest and sawmill operations, 1½ times the minimum rate after 54 hours.

<sup>5</sup> Québec — Employees in fishing or fish processing and employees engaged in fruit and vegetable picking and processing during the harvest season are not entitled to overtime pay; watchmen are entitled only to double the minimum rate after 60 hours. Forest operations, the woodworking industry and employment for municipal corporations and school boards, 1½ times the minimum rate after 48 hours; sawmills, 1½ times the minimum rate after 50 hours; the shoe industry, 1½ times the regular rate after 45 hours.

<sup>6</sup> Ontario — Seasonal employees who do not work more than 16 weeks in a year in fruit and vegetable processing and in the hotel, motel, tourist resort, restaurant and tavern industry (in the latter case, if provided with room and board), and local cartage, 1½ times the regular rate after 55 hours; road building, 1½ times the regular rate after 55 or 50 hours, depending on the class of work; highway transport, 1½ times the regular rate after 60 hours.

## EQUAL PAY

The Parliament of Canada enacted legislation in 1956, the Female Employees Equal Pay Act, which requires payment of equal remuneration for equal work as between the sexes in employment within federal labour jurisdiction.

All provinces but Québec have enacted equal pay laws, although the Newfoundland legislation has not yet been proclaimed in effect.<sup>1</sup> The Québec fair employment practices law (the Employment Discrimination Act) forbids discrimination in employment on the basis of sex, thus prohibiting, *inter alia*, discrimination in rates of pay solely on the grounds of sex. For the procedure applicable under this Act, see page 82.

Manitoba, New Brunswick and Nova Scotia have separate equal pay Acts. In three provinces, equal pay provisions are contained in the province's labour code—the Alberta Labour Act, Part VI; the Ontario Employment Standards Act, Part V; and the Saskatchewan Labour Standards Act, Part V. In three other provinces, equal pay provisions form part of human rights legislation—the British Columbia Human Rights Act, and the Newfoundland and Prince Edward Island Human Rights Codes.

The Acts provide for equal pay for equal work without discrimination on grounds of sex, but vary with regard to the definition of what constitutes equal work.

The British Columbia, Newfoundland, New Brunswick, Nova Scotia, Ontario and Prince Edward Island Acts refer, with some variations, to "the same" work done or performed in the same establishment.

The Newfoundland and New Brunswick legislation forbids an employer to pay a female employee at a rate of pay less than the rate paid to a male employee for *the same work done in the same establishment*.

The Nova Scotia and Prince Edward Island Acts state that an employer may not pay a female employee at a rate of pay less than the rate paid to a male employee for *substantially the same work done in the same establishment*. The British Columbia Act refers to *the same work or substantially the same work done in the same establishment*.

The Ontario provisions protect persons of either sex against discrimination in the payment of wage rates and lay down criteria for determining whether the work performed by a male employee and a female employee is the same. The employer is prohibited from paying a

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<sup>1</sup> Newfoundland equal pay legislation is to go into force on September 1, 1971.



female employee at a lesser rate of pay than that paid to a male employee, or vice versa, for *the same work performed in the same establishment, the performance of which requires equal skill, effort and responsibility, and which is performed under similar working conditions.*

An employer is forbidden to reduce the rate of pay of an employee in order to comply with the equal pay requirement. Further, employee or employer organizations may not cause or attempt to cause an employer to pay wages that contravene the equal pay provisions of the Act.

The Saskatchewan Act refers to "comparable" rather than "the same" work. It forbids discrimination in the payment of wages between a female employee and a male employee for *work of comparable character done in the same establishment.*

The federal and Manitoba statutes refer to "identical" or "substantially identical" work. The Manitoba Act, like the Ontario Act, forbids wage discrimination against either sex.

Under the Manitoba Act, an employer is forbidden to pay to the employees of one sex wages on a scale different from that on which wages are paid to employees of the other sex in the same establishment, *if the work required of, and done by, employees of each sex is identical or substantially identical.* The federal Act forbids an employer to employ a female employee for any work at a lesser rate of pay than the rate at which he employs a male employee for *identical or substantially identical work.*

By way of clarification, these Acts state that the work of a male and a female employee is to be deemed identical or substantially identical if the job, duties or services the employees are called upon to perform are identical or substantially identical (in Manitoba, "identical or substantially identical in kind or quality and substantially equal in amount").

The Alberta Act, as revised in 1970, prohibits discrimination in the payment of wage rates of male and female employees where the work performed is *similar or substantially similar.* The work is deemed to be similar or substantially similar if the job, duties or services the employees are called upon to perform are similar or substantially similar. The original wording of the Act was like that of the federal and Manitoba statutes. Reduction of an employee's rate of pay in order to comply with the legislation is prohibited.

All the Acts make it clear that a difference in rates of pay based on a factor other than sex does not constitute failure to comply with their requirements. In Nova Scotia, however, the employer must establish that a factor other than sex justifies a different rate of pay.



The federal and Manitoba Acts list a number of these factors, stating that a difference in rates of pay of male and female employees based on length of service or seniority, location or geographical area of employment (and, in Manitoba, performance or capacity), or any factor other than sex considered by a referee or court to justify payment of different rates is not considered to be in contravention of the law.

The Ontario Act contains three specific exceptions in addition to the general exception permitting a differential based on any factor other than sex. Differences in rates of pay based on (a) a seniority system, (b) a merit system, or (c) a system that measures earnings by quantity or quality of production do not constitute discrimination within the terms of the Act.

"Pay" is defined in most of the statutes to mean remuneration in any form. In the Alberta and Ontario Acts, "pay" is not defined but the definition of "wages" includes any form of remuneration for work performed, except tips and other gratuities.

"Establishment," as used in the substantive provision of the provincial Acts (except that of Alberta), is defined as a place of business or the place where an undertaking is carried on.

The Manitoba, Newfoundland, New Brunswick, Ontario, Prince Edward Island and Saskatchewan equal pay legislation is applicable to provincial government employees. The federal Act covers employees of Crown corporations but does not apply to other federal public servants. Rates of pay of classified public servants are set by classification, according to the type of work performed, without any distinction based on sex.

Ontario equal pay provisions are now enforced through regular inspection by the field staff of the Department of Labour. The Director of Employment Standards (who, under the direction of the Minister of Labour, administers the Employment Standards Act) has authority to determine the amount of wages owing to an employee, where in his opinion an employer has contravened the equal pay provisions. For purposes of enforcement of the Act, such amount is to be deemed unpaid wages.

Where the Director cannot determine the amount owing, the Minister may, on his recommendation, appoint a board of inquiry. A board of inquiry has the powers of a conciliation board under the Labour Relations Act. The board is required to hear the parties and to recommend to the Director the course of action that ought to be followed.

Under the wage collection procedure of the Employment Standards Act, the Director is empowered to collect unpaid wages (including overtime and vacation pay) for an employee up to a maximum of

\$2,000 and the employer is subject to a penalty of 10 per cent of the amount owing. An employer who has paid the wages and penalty, as required, has the right to apply to the Minister, within 15 days after being notified of the determination, for a review, whereupon the Minister or a person designated by him is required to hold a hearing giving the employer full opportunity to make submissions, and to decide the amount owing to the employee.

If the employer is dissatisfied with the Minister's decision, he may within 15 days appeal the decision to the Court of Appeal, on the ground that it is erroneous in point of law or in excess of jurisdiction. The appeal is to be heard as if made from a decision of a judge of the Supreme Court.

In the other jurisdictions, subject to two exceptions, the procedure laid down by the Act to enforce equal pay for equal work may be invoked only if the person claiming to have been discriminated against registers a complaint. The exceptions are Alberta and Nova Scotia. In these two provinces, while investigation is normally initiated through the filing of a written complaint, the director appointed under the Act has the authority to initiate an investigation on his own initiative (in Nova Scotia, where he has reasonable grounds for believing that a complaint exists).

A complaint is to be registered in the federal jurisdiction and in Newfoundland, New Brunswick and Prince Edward Island, with the Minister of Labour; in Alberta, British Columbia, Manitoba, Nova Scotia and Saskatchewan, with a designated officer of the Department of Labour (the director).

In Alberta, a complaint may be made by the employee's representative, as well as by the employee herself. In Manitoba, the employee must make a complaint within 30 days after receiving his or her first wages at an unlawful rate in order to have it dealt with under the Act. The British Columbia legislation imposes a six-month time-limit for making a complaint.

In all jurisdictions (except Ontario), the legislation provides for an initial informal investigation into a complaint by an officer of the Department of Labour (in British Columbia and Newfoundland, by the director or another officer of the Department of Labour; in Manitoba and Nova Scotia, by an officer of the Department of Labour or any other person).

In Newfoundland, New Brunswick, Nova Scotia and Saskatchewan, if the person designated to make the inquiry is unable to settle the matter, a board or commission of one or more persons may be appoint-

ed. The Saskatchewan Act refers to an *ad hoc* committee; in the Newfoundland Act, the commission is called a Human Rights Commission. (In Newfoundland, the Minister may, in addition, appoint a commission when he deems it desirable to have an inquiry made into any matter within the purview of the Act.)

In Alberta, the Board of Industrial Relations, which administers the Act, deals with a complaint that is not settled at the initial inquiry. Upon receiving the report of the investigating officer, stating that in his opinion there has not been a violation of the Act or that he has been unable to bring about a settlement, the Board may hold a hearing and determine the merits of the matter. In British Columbia, the director may refer the matter to the Human Rights Commission, a permanent body established under the Act. The Commission may dismiss a complaint at any stage of proceedings if it is of the opinion that it is without merit. Under the federal and Manitoba Acts, the second stage of the procedure is the appointment of a referee, who may or may not be an officer of the Department of Labour. In Prince Edward Island, the Minister must inquire into the matter, if it is not settled at the earlier stage.

The board, commission, *ad hoc* committee, referee or Minister is given full powers to conduct a formal inquiry. All the Acts provide that the parties to the complaint must be given an opportunity to present evidence and to make representations.

The recommendations of the board, commission, committee or referee, as the case may be, may be put into effect by an order of the Minister of Labour, except under the federal, Alberta and British Columbia Acts. Under the federal Act, the referee, and under the Alberta Act, the Board of Industrial Relations, is empowered to issue an order (referred to as a directive in the latter case). In British Columbia, the Human Rights Commission must issue an order, if it finds there has been a contravention of the Act. In Prince Edward Island, if the Minister finds the complaint to be justified, he must direct the course of action that ought to be taken and may issue an order to put it into effect. Under all the Acts, compliance with the order is required.

In Manitoba, an information may be laid against an employer who fails to comply with an order of the Minister. The hearing is to be a trial *de novo* and the magistrate may order the employer to pay any wages found to be due to the employee.

In Newfoundland, the order of the Minister may be appealed to the Supreme Court. In Alberta and British Columbia, an order of the

Board of Industrial Relations and Human Rights Commission, respectively, may be enforced by filing it in the Supreme Court of the province.

The British Columbia Human Rights Commission may direct the person whom it has found to be in contravention of the Act to cease and rectify the contravention. It may also include in its order a direction to pay the wages lost as a result of the contravention. The order of the referee under the federal Act and the Board's order in Alberta may direct the payment of wages owing for a period of up to six months preceding the date of the complaint (or, in Alberta, six months preceding the termination of employment, if earlier).

Provision is made in all the Acts for prosecution in the courts as a last resort. Failure to comply with the Act or an order is made an offence punishable by a fine. In Newfoundland, Ontario and Saskatchewan, the convicting magistrate must order the payment of wages due, in addition to imposing a fine. Under the federal Act, an employer convicted of an offence under the Act may, in addition to any other penalty, be made liable for payment of wages found to be due, covering a maximum period of six months. In Newfoundland, the order for the payment of wages is enforceable as a judgment of the magistrate in a civil action.

In the federal jurisdiction and in Manitoba, employees bound by collective agreements are in certain circumstances not permitted to make a complaint under the Act. Under the federal Act, the employees excluded are those subject to an agreement which contains an equal pay provision in substantially the same terms as the Act and which sets out a grievance procedure for the settlement of disputes. In Manitoba, no complaint may be made against an employer bound by a collective agreement to which the Labour Relations Act or Part XVIII of the Public Schools Act applies.

Each of the Acts except the Act of New Brunswick makes it an offence for an employer to dismiss or otherwise discriminate against an employee because he has made a complaint or given evidence under the Act.

A number of the laws provide that a person claiming to be aggrieved by an alleged contravention of the Act has a choice of initiating court proceedings or of making a complaint. Some Acts stipulate that the right of an employee to take any other proceeding for recovery of wages to which he is entitled is not barred by reason of any remedy provided for in the Act. The Alberta Act expressly provides that, instead of making a complaint, an employee may institute civil action against her employer for recovery of wages due under the



equal pay provisions, together with costs of the action. Court proceedings must be taken within 12 months from the date on which the cause of action arose. Up to 12 months' wages (preceding the termination of the employee's services or the taking of civil action, whichever occurs first) may be recovered under this alternative.

## HOURS OF WORK

### FEDERAL

Hours of work of employees in undertakings within federal labour jurisdiction are regulated by the Canada Labour (Standards) Code, Part I.

The Code sets a standard workday and workweek and requires payment of an overtime rate for work done beyond the hours specified. It also establishes a maximum workweek, overtime hours being restricted to 8 in a week, except in special circumstances.

Under the Code, standard hours (the number of hours that may be worked at regular rates of pay) are limited to 8 in a day and 40 in a week. Hours in excess of 8 and 40 may be worked, however, provided one and one-half times the regular rate is paid, up to a maximum of 48 hours in a week.

In a week in which an employee is entitled to a holiday with pay (under Part IV of the Code) the overtime rate is to be paid after 32 hours, instead of 40. In calculating overtime for the week, no account is to be taken of any time worked on the holiday.

Because some types of employment may call for a more flexible arrangement of working hours, the Code permits the averaging of hours over a period of two or more weeks. Under a system of averaging, working hours may vary from day to day or from week to week so long as the total standard hours do not exceed 40 multiplied by the number of weeks in the averaging period. The overtime rate (one and one-half times the regular rate) must be paid at the end of the averaging period for all hours worked in excess of such standard hours.

The total number of hours that may be worked by an employee in an averaging period is the product of the number of weeks in the period multiplied by 48.

Averaging is permitted for any class of employees who have no regularly scheduled working hours or who have regular hours but the number of hours scheduled differs from time to time. On notification to



the Department of Labour, an employer may select an averaging period of 13 weeks or less.

If an employer requires a longer period for averaging than 13 weeks in order to provide for a period in which fluctuations take place (e.g., where there are seasonal rush and slack periods during the year) he must obtain the approval of the Minister of Labour. The same conditions apply as to a period of 13 weeks or less. The period over which hours may be averaged may be as long as a full year.

An employer who has adopted an averaging plan is required to post clear information about the plan in places where it can readily be seen by the employees affected.

When an employee terminates his employment of his own accord during an averaging period, he is not entitled to overtime pay. If his employment is terminated by the employer, however, he must be paid overtime pay for any hours worked in excess of an average 40-hour week over the period he has worked.

Exceptions from the maximum workweek are permitted in certain circumstances. Work in excess of 48 hours in a week (or the maximum hours established in an averaging period) may be allowed under permit, when the Minister, having given due regard to the conditions of employment and the welfare of the employees, is satisfied that such exceptional conditions exist as to make the working of additional hours necessary.

A permit is issued for a definite period of no longer duration than the time the exceptional circumstances are expected to continue. The permit may specify either the total amount of excess overtime that may be worked in the period or the additional number of hours per day or per week that the employees may work. The number of employees engaged in such excess overtime and the extent of the overtime worked by each must be reported in writing to the Minister within 15 days after the overtime permit expires or within a time fixed in the permit.

Maximum weekly hours may also be exceeded to make up for the time lost due to an accident, breakdown in machinery or other emergency. The employer is required to report such emergency work within a specified time.

The operation of Part I may be deferred or suspended with respect to any undertaking or class of employees for a period of not more than 18 months by an order of the Minister, or, following an inquiry, for a longer period by an order of the Governor in Council, made on the recommendation of the Minister.

An order of the Minister may simply remove the obligation to comply with Part I pending further investigation or it may set hours of

work standards to be observed for its duration. An order of the Governor in Council must lay down standards of working hours, and such standards may vary for different periods of time. The order may not be amended or revoked without the holding of a further inquiry.

Because of the special conditions prevailing in some industries and in order to allow for gradual implementation of the hours of work standards of the Code, the deferment procedures have been used to a considerable extent. A number of deferment or suspension orders, including those applying to long-distance trucking and shipping operations on the St. Lawrence River and East Coast of Canada and Newfoundland, remain in effect.

## PROVINCIAL

### **General Hours of Work Laws**

Five provinces have Acts of general application regulating working hours (the Alberta Labour Act, Part I; the British Columbia Hours of Work Act; the Manitoba Employment Standards Act, Part III; the Ontario Employment Standards Act, Part II; and the Saskatchewan Labour Standards Act, Part II). These Acts are of two types.

The Acts of Alberta, British Columbia and Ontario set a maximum number of hours per day and per week beyond which an employee must not work. Hours are limited in Alberta and British Columbia to 8 in a day and 44 in a week and in Ontario to 8 in a day and 48 in a week.

All three laws provide for exceptions in certain circumstances. Exceptions are authorized in orders or regulations or through the issuing of a permit. In both Alberta and British Columbia, the administrative board has authority not only to permit working hours to exceed statutory limits but also to fix the minimum wage payable for overtime. In both provinces the board has made special orders for a considerable number of industries, permitting variations from the daily and weekly hours specified in the Act or exempting workers entirely from hours limitations.

In Ontario, the Director of Employment Standards may, by permit, authorize hours of work in an establishment in excess of 8 and 48, subject to specific limits laid down in the Act. The limit for overtime is 12 hours in a week for an engineer, fireman, full-time maintenance man, receiver, shipper, delivery truck driver or his helper, watchman, or any other person who, in the opinion of the Director, is engaged in a similar occupation. For all other employees (excluding girls under 18) the limit for excess hours is 100 hours in each year for each employee.

The Director may also issue a permit authorizing working hours in excess of the overtime limits set out above, if he is satisfied that the nature of the work or the perishable nature of the raw material being processed requires the excess hours.

In no case may a girl under the age of 18 work more than 6 hours overtime in a week.

Subject to certain exceptions set out in the regulations, one and one-half times the regular rate must be paid for work done, under permit, beyond 48 hours in a week. The employee's regular rate of pay must not be reduced in complying with this requirement.

Taxi drivers, and ambulance drivers and their helpers are not entitled to overtime pay. In certain industries—highway transport, local cartage, road building, the hotel, motel, tourist resort, restaurant and tavern industry (seasonal employees) and fruit and vegetable processing (seasonal employees)—extended hours, 50, 55 or 60, as the case may be, may be worked before the overtime rate applies.

The Manitoba and Saskatchewan Acts set standard hours as opposed to maximum hours. They do not limit the hours which may be worked in a day or in a week but require the payment of time and one-half the regular rate after 8 hours in a day and 44 hours in a week. To prevent the working of excessively long hours, the Saskatchewan Act empowers the Lieutenant Governor in Council to limit daily hours in any occupation to 12, except in special circumstances or when permission to work longer hours has been obtained from the Minister of Labour.

The Manitoba and Saskatchewan laws also provide for exceptions. The Manitoba law permits working hours to be varied in certain circumstances without payment of the overtime rate. The Manitoba Labour Board must review once a year any orders it makes under this authority.

In Saskatchewan, it has been necessary to provide for some relaxation of the provisions of the Act, and regulations permit a 48-hour week to be worked in workplaces, other than factories, in the smaller centres before overtime rates apply. Other regulations permit hours to be averaged over a specified period, thus allowing some variation from week to week. Certain classes of employees have been entirely exempted from the Act, with the result that these classes have no entitlement to overtime pay.

Under all the Acts, there is provision for working daily hours in excess of 8 in order to establish a 5- or 5½-day week, so long as

weekly hours are not exceeded. There is also provision, except in Saskatchewan, for hours to be exceeded in emergencies.

The standards set under hours of work laws and the application of each Act in general terms are set out in the following table.

Jurisdiction	Standards Set	Application
Federal	Standard hours: 8, 40 after which 1½ times the regular rate must be paid Maximum hours: 48	Federal industries Exclusions: managers, superintendents and professional employees Exceptions: railways not yet brought under Code; different standards set by order in council for some industries (e.g., long-distance trucking, interprovincial shipping on east coast)
Alberta	Maximum hours: 8, 44	Most employment Exclusions: managerial and confidential employees, farm labour and domestic service Exceptions: different standards set by regulation for some industries (e.g., trucking, taxicab, logging and sawmill, highway construction, geophysical exploration, oil well service, work camps, nursery)
British Columbia	Maximum hours: 8, 44	Industries in Schedule (e.g., manufacturing, mercantile, catering, construction, mining, barbering, elevator operators, hotel clerks, truck drivers, bus operators) Exclusions: managerial and confidential employees Exceptions: different standards set by regulation for some industries (e.g., trucking, logging, fruit and vegetable canning, bus operators)
Ontario	Maximum hours: 8, 48	Most employment Exclusions: supervisory and managerial employees, professional employees, farm workers, domestic servants, construction, commercial fishermen, resident janitors or caretakers, and a few other classes of employees Exceptions: different standards set by regulation for some industries (e.g., highway transport, local cartage, road building)



Jurisdiction	Standards Set	Application
Manitoba	Standard hours: 8, 44 after which 1½ times the regular rate must be paid	Most employment Exclusions: professional employees, farming, domestic service, fishing and construction
Saskatchewan	Standard hours: 8, 44 (8, 48, except for factories, in smaller centres) after which 1½ times the regular rate must be paid	Most employment Exclusions: managerial employees, farm workers, domestic servants, janitors in residential buildings, logging, fishing and fish processing and road construction Exceptions: different standards set by regulation for some industries (e.g., oil truck drivers, newspaper staff, pipeline construction)

### Other Legislation Restricting Hours

Apart from general hours of work laws, other statutes regulate working hours in some industries.

Schedules under industrial standards legislation in seven provinces and decrees under the Québec Collective Agreement Decrees Act and the Construction Industry Labour Relations Act regulate hours in construction and other industries. Schedules and decrees apply to designated zones; a number apply throughout the province.

Generally speaking, standard weekly hours for the construction industry range from 40 to 48, with a 40-hour week being the usual standard in the larger centres. In Québec, a 40-hour week is set for tradesmen, a 45-hour week for labourers and a 50-hour week for road building.

In another industry regulated by schedules and decrees in Ontario and Québec, the garment industry, standard weekly hours are usually 37½ or 40. In a few branches of the industry in Québec, standard hours have been reduced to 35.

In Manitoba, maximum hours which may be worked at regular rates are set under the Construction Industry Wages Act, which applies to both private and public construction work. At the present time a 40-hour week is in effect for most classifications of construction work in the Greater Winnipeg area, and a 48-hour week in the rest of the province. In the heavy construction industry, the maximum hours of work payable at regular rates are 60 except in Metropolitan Winnipeg



during the period from November 1 to April 30, when a 48-hour week is in effect.

Mining legislation in New Brunswick and Nova Scotia, which sets a maximum 8-hour day for underground work in mines, provides the only statutory regulation of hours of work of miners in those provinces; hours of work Acts apply to mining in other provinces.

Working hours of women and young persons are restricted by the New Brunswick Minimum Employment Standards Act and by factory legislation in two other provinces. Under the New Brunswick Minimum Employment Standards Act, which is applicable to any place of employment other than a private home or a farm, hours of women and boys under 18 years are limited to 9 in a day and 48 in a week, unless special permission to work longer hours is obtained from the Minister of Labour. Québec factory law restricts hours of women and boys under 18 to 9 in a day and 50 in a week in factories and to 54 hours in a week in commercial establishments. In Saskatchewan, women and boys under 18 employed in factories are prohibited from working more than 48 hours in a week.

In Newfoundland, the Hours of Work Act limits working hours of shop employees anywhere in the province to 8 in a day and 40 in a week, unless one and one-half times the regular rate is paid.

In all provinces except Manitoba, Ontario and Saskatchewan, there is also some indirect regulation of hours by virtue of provisions in minimum wage orders requiring the payment of an overtime rate after a specified number of hours of work.

A minimum wage order of considerable significance with regard to working hours because of its wide coverage is General Minimum Wage Order 4 in Québec. Order 4 is a blanket order applying to all employees in the province except those covered by decrees, workers governed by special minimum wage orders, farm workers, domestic servants and a few other minor groups. The minimum rates set by Order 4 apply to a standard workweek of 48 hours, after which an overtime rate of one and one-half times the minimum rate must be paid. After 60 hours in a week, double the minimum rate is mandatory. A few classes of employees are excluded from these overtime provisions.

In British Columbia, in an increasing number of minimum wage orders, payment of time and one-half the regular rate is required after 40 hours in a week. The 40-hour standard workweek is now in effect under the general order and under orders governing such industries and occupations as automotive repair and gasoline service stations, barbering and hairdressing, construction, electronic technicians, stationary steam

engineers, logging, sawmills and woodworking, machinists, moulder and refrigeration and sheet metal mechanics, mining, pipeline construction and shipbuilding.

In Saskatchewan, the Minimum Wage Board has no authority to fix overtime rates. All overtime pay requirements are laid down in the Labour Standards Act and orders under it. In Manitoba, overtime pay requirements are contained in Part III of the Employment Standards Act. In Ontario, overtime pay is required under the Employment Standards Act and regulations.

Overtime rates are shown on page 44.

### **Night Work for Women**

In Québec, under the Industrial and Commercial Establishments Act, as amended in 1968, women are permitted to work on the night shift under certain conditions. Previously, women were forbidden to work after midnight.

The Act authorizes the Minister of Labour to grant a permit allowing women 18 and over to work on a third shift in an industrial establishment, if he is satisfied that the nature of production, market conditions and other special circumstances require it. Before ruling on an application for a permit, the Minister must request the opinion of the certified trade union.

Hours of work on the third shift may not exceed 8, and work must not begin before 11 p.m. or after midnight. A lunch break of at least 30 minutes must be allowed around the middle of the shift, and two rest periods of 10 minutes each must be granted in the intervals before and after the refreshment period. Wage rates for the night shift must not be less than those for the two other shifts, and, if premium pay is given for night work, it must be paid to the women employees on the shift.

The employer must ensure the safety of women who leave work before 7 a.m. by providing them with convenient and safe transportation to their homes at his expense.

Regulations made under the Act lay down further conditions. At least one female supervisor, nurse or first aid attendant must be present on the night shift, and there must be at least two women besides the female supervisor in each workroom or workshop. A permit may not be issued for a period longer than a year. It may be revoked without notice for breach of any of the conditions under which it was issued.

In Ontario, no girl under 18 may work in an establishment between midnight and 6 a.m. If the work period of a female employee

of 18 or over begins or ends between midnight and 6 a.m., her employer must provide her with private transportation at his expense from her residence to the place of work or from the workplace to her home.

An order under the Alberta Labour Act prohibits the employment of women on shifts which begin or end between midnight and 6 a.m. unless the employer provides free transportation for the employee to or from her place of residence. Any period during which the employee is required to wait on the employer's premises for transportation to her place of residence is to be deemed working hours.

Manitoba minimum wage regulations contain a similar provision, requiring employers to provide women employees whose work begins or ends between midnight and 6 a.m. with adequate transportation, without cost to the employee, between the place of residence and the place of employment.

In Saskatchewan, women employees in hotels, restaurants, educational institutions, hospitals and nursing homes who are required or permitted to finish work between 12.30 a.m. and 7 a.m. must be provided by the employer with free transportation to their homes. Nurses, nursing assistants and student technicians are not covered by this provision.

## WEEKLY REST-DAY

The Canada Labour (Standards) Code (Section 7) provides that employees must be given at least one full day of rest in the week, on Sunday wherever possible.

Two exceptions from this general rule are provided for in the regulations. A weekly rest-day does not need to be granted where working hours are averaged over a specified period.

Where working hours in excess of 48 in a week are allowed under a permit from the Minister of Labour, the Minister may specify in the permit that a weekly rest need not be scheduled, as required by the Code, and may prescribe alternative periods of rest.

Nine provinces—Alberta, British Columbia, Manitoba, Newfoundland, New Brunswick, Nova Scotia, Ontario, Québec and Saskatchewan—provide for a weekly rest-day but the provisions vary in scope.

The Alberta Labour Act requires all employed persons except farm workers and domestic servants to be given a day of rest in each consecutive period of seven days, unless the Board of Industrial Relations orders that the hours of rest be allowed in two periods or that a

longer period than 24 hours be granted. The Act enables the Board to make special provision for days of rest in industries which ordinarily operate at least one shift on each day of the week, and permits a consecutive rest period to be granted every four weeks or in relation to some other work period which the Board considers proper. The Board has made special provision for accumulated days of rest in the highway construction, geophysical exploration, land surveying, brush clearing, oil well service and pipeline construction industries, for employees of rural municipalities engaged in road work, and for cooks, night watchmen, etc., in lumber camps.

The general order under the British Columbia Minimum Wage Acts provides for a rest period of 32 consecutive hours weekly. This order applies to most employees not covered by special orders. The orders governing the logging, sawmill, woodworking and Christmas tree industries, shipbuilding, first aid attendants, patrolmen employed by private agencies, taxicab drivers, resident caretakers, and men in funeral parlours in Vancouver, Victoria and environs also require a 32-hour rest period to be granted. Different arrangements may be made on application of the employer and employees concerned, if the Board of Industrial Relations approves.

In Manitoba, the Employment Standards Act provides that a weekly day of rest, if possible Sunday, must be granted to most employees. Exempted are farm workers, watchmen, janitors and firemen living in the building in which they are employed; managers and supervisory employees; repair workers in emergencies; and persons employed for not more than three hours on a weekly rest-day merely for the purpose of looking after horses as part of their usual duty. The Minister of Labour is given discretion to exempt a particular undertaking from the application of weekly rest provisions for a fixed period or indefinitely. Where a plant is exempted, each employee must be given an additional holiday without pay for each weekly day of rest to which he would have been entitled except for the permit of exemption, and the holidays may be accumulated.

Under the Newfoundland Weekly Day of Rest Act, an employer is required to grant his employees a weekly rest period of at least 24 consecutive hours, wherever possible on Sunday. The requirement does not apply to employees employed solely in senior managerial capacities, as defined by the regulations, or to employees engaged in emergency work. Any employer or any class of employers may be exempted by regulations, subject to such conditions as may be prescribed.



The Minister of Labour may grant a permit exempting an employer from compliance with the Act for a period not exceeding 30 days in case of accident, urgent and necessary work to be done to premises or equipment, abnormal pressure of work, or danger of loss of perishables. The Minister may cancel or renew a permit and there is no restriction on the number of permits or renewals that may be granted to an employer. Where a permit is issued, an employee accumulates a period of holidays equivalent to the missed rest periods, with or without pay, in conformity with the pay provisions applicable to the missed rest periods. The employer must allow the accumulated holidays to be taken within 30 days of the expiry or the renewal of a permit.

The Newfoundland Hours of Work Act, which applies to shops throughout the province, requires shop assistants to be given a day off each week in addition to Sunday, except in the weeks in which eight specified holidays occur. In the weeks in which five other specified holidays occur, they must be given a day off in addition to Sunday and the holiday.

The New Brunswick Minimum Employment Standards Act requires employers to give their employees a weekly rest of at least 24 consecutive hours, to be taken if possible on Sunday. Where a weekly rest is impracticable, the Minister of Labour may permit rest periods to accumulate and to be taken later, either part at a time or all together. The only employees not covered are farm workers, domestic servants, employees required to cope with an emergency and part-time workers who are not usually employed more than five hours in a day. Certain groups of employees may be designated by the Lieutenant Governor in Council as being outside the scope of the Act.

In Nova Scotia, every employer in mining, manufacturing and construction is required to grant his employees a weekly rest of at least 24 hours. Wherever possible, the period of rest must be on Sunday and must be granted simultaneously to the whole of the staff of each undertaking.

In Ontario, in cities of 10,000 or more people, workers in hotels and restaurants must be allowed a weekly rest-day, Sunday if possible. Watchmen, janitors, foremen, and those employed for five hours or less in a day are exempted.

In Québec, Minimum Wage Order 4, applying generally to all industries within the scope of the Act not covered by special orders, provides for a weekly rest of at least 24 consecutive hours for the employees covered by its provisions. Farm workers, domestic servants and employees covered by decrees under the Collective Agreement De-



crees Act are the only workers not within the scope of the Minimum Wage Act. The seven special minimum wage orders also provide for a weekly rest of 24 consecutive hours. Under the Québec Weekly Day of Rest Act, persons employed in hotels, restaurants or clubs in places of at least 3,000 population must have 24 consecutive hours of rest in a week. In the Québec district, the inspector may permit two periods of 18 hours each instead of one 24-hour period. Where there is only one cook, the 24-hour rest may be replaced by two 12-hour periods.

The Saskatchewan Labour Standards Act provides for a weekly rest of at least 24 consecutive hours, wherever possible on Sunday. Exempted are workers employed in farming, ranching or market gardening, domestic servants, firemen, managerial employees, persons employed in family undertakings and employees who are not usually employed for more than five hours in a day. The Minister of Labour may by permit exempt an employer from compliance with the weekly rest requirement for a specific period not exceeding one year. Any class of employers or employees may be excluded by regulations of the Lieutenant Governor in Council, subject to such conditions as may be prescribed.

## ANNUAL VACATIONS WITH PAY

The Canada Labour (Standards) Code, Part III, provides for a vacation with pay of at least two weeks after every completed year of employment. Vacation pay is 4 per cent of wages for the year in which the employee establishes his claim to a vacation.

A year of employment, under the federal law, must be continuous with one employer, and may be a 12-month period commencing with the day the employee began to work for the employer or any subsequent anniversary of that date, or it may be a calendar year or another year approved by the Minister of Labour.

All provinces have annual vacations legislation. The provisions regarding annual vacations with pay are contained in the Alberta Labour Act and in two orders under it (a general order and a special order for the construction industry); in the Ontario Employment Standards Act and regulations; in Québec Minimum Wage Orders 3 and 7\*; and in the

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\*The legislation described in this section is Minimum Wage Order 3, Order 7 governing the shoe industry requires every employer to grant his employees two consecutive weeks of vacation, with vacation pay at 4 per cent of wages, every year. Except for office workers, watchmen and instock employees, the vacation period must be the week including the 13th of July and the following week.

Saskatchewan Labour Standards Act, Part I, and regulations. British Columbia provides for annual vacations with pay and public holidays in one statute, the Annual and General Holidays Act. The other five provinces have separate annual vacations laws. Vacation with pay provisions are also contained in most decrees under the Québec Collective Agreement Decrees Act and the Construction Industry Labour Relations Act†. Some industrial standards schedules make provision for pay in lieu of annual vacations.

The Canada Labour (Standards) Code applies to industries within federal jurisdiction and the only employees excluded are those who are managers or superintendents or who exercise management functions, and members of the medical, dental, architectural, engineering, legal and scientific professions.

The provincial laws govern employees in employment within the jurisdiction of the province, with the exception of the classes of employees noted below. The Newfoundland Act provides for the exemption of employees or classes of employees by order of the Lieutenant Governor in Council. No regulations have yet been made.

Farm workers are excluded in all provinces except Newfoundland. In addition, British Columbia excludes persons employed in horticulture, and Manitoba and Saskatchewan, those employed in ranching and market gardening. (In Ontario, workers in certain occupations related to farming are covered, e.g., landscape gardening and veterinary services. Similarly, in Saskatchewan, the Act applies to egg hatcheries, greenhouses and nurseries and bush clearing operations, and in Manitoba to landscape gardening and growing flowers, plants, ornamental shrubs and trees.) Domestic servants are exempted in all provinces except Newfoundland and Saskatchewan, but in Prince Edward Island the exclusion is limited to domestic servants who are employed for a period of less than two months. Certain categories of employed students are excluded in Ontario and Québec.

Also excepted are workers employed in lumbering in Nova Scotia, workers employed in commercial fishing in Nova Scotia, Ontario and Prince Edward Island, and workers employed in canneries that operate less than four continuous months in a year in Prince Edward Island.

Professional workers are excluded in British Columbia and Ontario.

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†Provisions for an annual vacation with pay or pay in lieu of a vacation vary in the approximately 85 decrees in effect under the Collective Agreement Decrees Act and the Construction Industry Labour Relations Act and are not dealt with in this publication. The Department of Labour or Minimum Wage Commission has no jurisdiction with respect to the administration and enforcement of the decrees, which are under the supervision of the parity committee concerned.

Salesmen paid entirely by commission are excluded in Alberta; special categories of salesmen, such as real estate and insurance agents, are outside the scope of the Alberta and Québec vacation provisions; real estate salesmen are excluded in Ontario. Part-time workers employed four hours or less in a day or 24 hours or less in a week are not covered in New Brunswick or Prince Edward Island; those regularly working less than three hours in a day are excluded in Québec; and those employed for eight hours or less in a week are exempted from the Alberta order.

The large group of workers governed by decrees under the Collective Agreement Decrees Act are outside the scope of the Québec vacation order (see footnote † on page 63). Workers governed by a collective agreement in British Columbia are exempted from the Act if the Minister of Labour approves the vacation provisions of the agreement.

In New Brunswick and Prince Edward Island, the vacation with pay to which a worker is entitled by law is one week after a year of employment.

In Ontario, workers are entitled to a vacation of one week after the first year of employment and to two weeks after the second year and each subsequent year. Non-continuous prior service may be counted for vacation purposes. If an employee has completed 12 months of non-continuous employment in any period of 36 months after 1966, he is entitled to a vacation.

Under the Canada Labour (Standards) Code, and in Alberta, British Columbia, Manitoba, Newfoundland, Nova Scotia and Québec, a vacation of two weeks must be granted after a year of employment.

The Saskatchewan Act provides for an annual paid vacation of two weeks after each of the first four years of service and of three weeks after the fifth year and each year thereafter. The period of five years of employment with the same employer necessary for an employee to qualify for a three-week vacation may be continuous or may be made up of "accumulated" years, provided that no break in employment exceeds 6 months (182 days).

The length of the vacation period and the vacation pay requirements in the various jurisdictions are shown in the table facing.

As indicated in the preceding table, Alberta and Manitoba require the payment of regular pay for the vacation period. Regular pay means the pay the employee would have earned for his normal hours of work during the vacation period and includes the cash value of board and lodging, where provided.

Jurisdiction	Length of Annual Vacation	Vacation Pay
Federal	2 weeks	4% of annual earnings
Newfoundland	2 weeks	4% of annual earnings
Prince Edward Island	1 week	2% of annual earnings
Nova Scotia	2 weeks	4% of annual earnings
New Brunswick	1 week	2% of annual earnings
Québec	2 weeks	4% of annual earnings
Ontario	1 week; 2 weeks after 2 years' service	2% of annual earnings in first year; 4% of annual earnings after second year
Manitoba	2 weeks	Regular pay
Saskatchewan	2 weeks; 3 weeks after 5 years' service	1/26 of annual earnings in first four years; 3/52 of annual earnings after fifth year
Alberta	2 weeks	Regular pay
British Columbia	2 weeks	4% of annual earnings

In the other jurisdictions, vacation pay is a percentage of the employee's earnings for the period during which he establishes his right to a vacation. The Acts vary in what is included as earnings.

Under the Canada Labour (Standards) Code, all forms of remuneration for work performed other than tips and gratuities are counted for purposes of calculating vacation pay. Overtime pay, vacation pay, holiday pay, and the cash value of board and lodging furnished by the employer are therefore included. British Columbia, Newfoundland, Ontario and Saskatchewan follow the same principle. In Newfoundland, overtime pay is excluded. Ontario excludes supplementary unemployment benefits and payments made at the employer's discretion.

In New Brunswick and Prince Edward Island, vacation pay is based on pay received or receivable for work done; in Québec, on the employee's salary earned for the year; and in Nova Scotia, on annual earnings. These terms are not further defined, except that in Nova Scotia the cash value of board and lodging is included.



In Québec, if a worker has not completed a year's service for the same employer, he is entitled to a continuous vacation of one day for each working month. Similarly, in Saskatchewan, regulations provide that, in order to make the vacation entitlement date of his employee uniform, an employer may grant to an employee with less than a year's service a continuous vacation of one day for each month of employment. The Board of Industrial Relations in Alberta may, in making a vacation pay order, require an employer to give an employee who has not completed a year of employment a vacation in proportion to the time worked.

Most of the laws specify the working time constituting a year of employment. In British Columbia and New Brunswick, a year's service consists of not less than 225 working days (in New Brunswick, working days or shifts). In Manitoba, an employee is held to have completed a year's service if he has worked not less than 95 per cent of the regular working hours during a continuous 12-month period. In Alberta, Newfoundland, Nova Scotia and Prince Edward Island, the employee must have worked 90 per cent or more of the working time during the year (of the regular working days in the establishment in Alberta and of regular working hours in Newfoundland, Nova Scotia and Prince Edward Island).

Where an employee has worked less than the prescribed working time for a year's continuous service and continues to work for the same employer, he is entitled to a vacation on a pro rata basis in Alberta, and to accrued vacation pay for the period worked during the year in British Columbia, Manitoba, Newfoundland, New Brunswick and Nova Scotia. The vacation pay is payable in New Brunswick not later than the next regular pay period after the end of the vacation pay year; in Manitoba, on the anniversary date of the workman's employment; in Newfoundland, within a week after the anniversary date; and in the other two provinces, within a month after the anniversary date.

The employer may determine the time when each of his employees may take the annual vacation to which he is entitled, within certain limits laid down by law. The vacation must be given in New Brunswick not later than 4 months after June 30; in Manitoba and Saskatchewan within 10 months, and in the federal jurisdiction, British Columbia, Newfoundland, Nova Scotia, Ontario and Prince Edward Island, not later than 10 months, after the date on which the employee becomes entitled to a vacation; in Québec within 12 months, and in Alberta not later than 12 months, after the date of entitlement.

Nine jurisdictions require an employer to give notice to the em-



ployee of when his vacation is to begin. The minimum period of notice required is one week in Newfoundland, New Brunswick, Nova Scotia and Prince Edward Island; two weeks in the federal jurisdiction and Saskatchewan; 15 days in Manitoba; and 16 days in Québec. Under the Canada Labour (Standards) Code and in Manitoba, Newfoundland and Saskatchewan, another period of notice may be substituted by agreement. In Alberta, the employer must give the employee one week's notice, if agreement cannot be reached regarding the date on which the vacation is to commence.

An employer in a federal undertaking is required to pay his employees their vacation pay at least one day before the beginning of the vacation, except in cases where it is the custom of the establishment to pay vacation pay on the regular payday during or immediately following an employee's vacation. Most of the provincial laws also require vacation pay to be paid at least one day before the vacation begins. The Québec order simply states that vacation pay is to be paid before the employee's departure on vacation. In Saskatchewan, an employer must pay an employee his pay during the 14 days immediately preceding the beginning of the vacation.

The Canada Labour (Standards) Code and five of the provincial laws stipulate that an employee's annual vacation is to be extended by one day in lieu of a public holiday that occurs during the vacation. (In Manitoba, Newfoundland and Saskatchewan, a holiday is defined as a day for which he is entitled to be paid wages without being present at work.) The federal and Saskatchewan laws provide further that for the extra day the employee is to be paid the wages to which he is entitled for the holiday.

Under the Canada Labour (Standards) Code and all the provincial laws, workers are entitled to vacation pay on termination of employment during the working year. In the federal jurisdiction, an employee must have been continuously employed by the employer for a period of 30 days or more in order to be entitled to vacation pay.

In most jurisdictions vacation pay must be paid immediately on termination of employment. In Ontario, vacation pay is payable on termination or within one week; in Newfoundland, within one week; in Nova Scotia, within 10 days; and in New Brunswick and Prince Edward Island, by the next regular payday following termination of employment.

In Alberta, employers in the construction industry must give each employee (except office staff) vacation credits at the end of each regular pay period. The vacation credits (4 per cent of the employee's

regular earnings) are to be recorded in the employer's payroll. The employee must be given the amount of money equivalent to his accrued vacation credits on December 31 or on termination of employment. If he is entitled to an annual vacation, he must be paid his vacation pay the day before his vacation commences.

## PUBLIC HOLIDAYS

### FEDERAL

Under the Canada Labour (Standards) Code, Part IV, eight public holidays in a year are to be observed as paid holidays.

An employee employed in an industry to which the Code applies is entitled to a holiday with pay on each of the following general holidays: New Year's Day, Good Friday, Victoria Day, Dominion Day, Labour Day, Thanksgiving Day, Remembrance Day and Christmas Day. The Code provides also that, under certain conditions, an alternative holiday may be substituted for any of the eight holidays specified.

Should a holiday occur on a day on which an employee does not normally work, he must be granted a day off with pay in lieu of the holiday, either at a time convenient to him and his employer or by the addition of a day to his annual vacation.

If Christmas, New Year's Day or Dominion Day falls on a Saturday or Sunday that is a non-working day for an employee, he must be given a holiday with pay on the working day immediately before or after the general holiday. These provisions regarding alternative days off do not apply, however, to employees covered by a collective agreement that entitles them to at least eight paid holidays a year.

The Code lays down the general principle that an employee in a federal undertaking who does not work on a holiday is entitled to his regular pay for the day. If he is paid by the week or month, his wages must not be reduced by reason of his not working on a holiday. If he is paid on any other basis, he must receive the equivalent of a normal day's pay.

An employee in a federal undertaking who is required to work on a general holiday (other than one employed in a "continuous operation") is entitled to his regular wages for the day and, in addition, to time and one-half his regular rate for all time worked. In effect, he is paid two and one-half times his usual rate.

An employee employed in a "continuous operation" (defined to include employment concerned with the operation of trains, planes,

ships, trucks and other vehicles, telephone, radio, television and telegraph services, or any other service normally carried on without regard to Sundays or holidays) who is required to work on a holiday *either* must be paid his regular wages for the day, plus time and one-half his regular rate for all time worked *or*, in addition to his regular pay for the day, must be granted a holiday with pay at some other time, either a day added to his annual vacation or another day convenient to him and his employer.

There are some situations in which an employee is not entitled to holiday pay. An employee is not entitled to pay for a general holiday that occurs in his first 30 days of employment with an employer, but if he is required to work on a holiday he must be paid time and one-half his regular rate. If he is employed in a continuous operation, he may be paid at his regular rate for work done on a holiday.

A further exception is that an employee is not entitled to pay for a general holiday on which he does not work if he is not entitled to wages for at least 15 days during the 30 calendar days immediately preceding the holiday.

An employee in a continuous operation is not entitled to pay for a general holiday if he did not report for work in response to a call from the employer.

Special regulations for longshoremen provide that a longshoreman employed by an employer who is a member of a "multi-employer unit" is entitled to holiday pay if he is entitled to wages for at least 15 days or 120 hours in the 30 calendar days immediately preceding a general holiday. Pay for the holiday may not be less than eight times the employee's basic hourly wage rate.

A longshoreman employed by an employer who is not a member of a "multi-employer unit" must be paid, on each payday, in lieu of general holidays, an amount equal to 3 per cent of his basic wage rate multiplied by the number of hours he has worked for the employer in the pay period.

An employee who is required to work on a general holiday is to be paid at not less than one and one-half times his basic rate of wages for the time worked by him on that day.

## PROVINCIAL

Six provinces—Alberta, British Columbia, Manitoba, Nova Scotia, Ontario and Saskatchewan—have enacted legislation of general application dealing with public holidays. Four provinces (Saskatchewan, Alberta, British Columbia and Manitoba) have legislation similar in

principle to the federal holiday provisions, and two (Nova Scotia and Ontario) have regulated pay for work on public holidays.

## **Saskatchewan**

In Saskatchewan, a minimum wage order requires employees who do not work on any of eight public holidays to be paid their regular pay. For workers in the construction industry and in logging and lumbering the order provides for payment of a lump sum in lieu of pay for the eight listed holidays. The eight holidays are New Year's Day, Good Friday, Victoria Day, Dominion Day, Labour Day, Thanksgiving Day, Remembrance Day and Christmas Day.

When Christmas or New Year's Day falls on Sunday, the following Monday is to be observed as a holiday. When the Monday following Remembrance Day is declared a holiday, it is to be observed as a holiday under the order. By agreement between an employer and a trade union representing a majority of the employees in an appropriate bargaining unit, another working day may be substituted for any of the eight listed holidays. Where workers are not represented by a trade union, the Minister of Labour may by order permit a similar substitution, if he is satisfied that the employer and a majority of the employees are in favour of the change.

The order applies to all employees except nurses, student nurses, nursing assistants and technicians; resident janitors or caretakers; employees to whom the Fire Departments Platoon Act applies; employees of a rural municipality employed solely on road maintenance; and persons employed in a managerial capacity.

If required to work on a holiday, employees in almost all workplaces must receive, in addition to their regular pay for the holiday, time and one-half the regular rate for every hour or part of an hour worked, in effect, two and one-half times their regular pay.

A major exception to the above rule is that workers in hotels, restaurants, hospitals, nursing homes and educational institutions who are required to work on a holiday must be paid, in addition to their regular pay, wages at the regular rate, or they may be given time off equivalent to the hours worked on the holiday at regular rates within four weeks.

Persons engaged in the operation of a well-drilling rig are required to be paid at their regular rate of wages, plus their normal pay for the day, for work performed on a holiday.

The order provides that, where an employee's wages, exclusive of overtime, vary from day to day, pay for a public holiday is to be



calculated on the basis of his average daily wage, exclusive of overtime, for the four immediately preceding days that bear the same name as the day on which the holiday occurs.

Workers in the construction industry who do not work on any of the eight specified holidays must be given holiday pay in a lump sum in an amount equal to 3 per cent of their gross wages for the calendar year, exclusive of overtime. Payment must be made on December 31 or on termination of employment, whichever occurs first.

Workers who work on the holidays must be paid, in addition to the lump sum payment, wages at the rate of time and one-half their regular rate for all time worked. The latter amount must be paid in the pay period in which it is earned.

Workers in the logging and lumbering industries must also be given a lump sum payment equal to 3 per cent of their gross wages, exclusive of overtime. The provisions applicable to these workers are the same as those governing construction workers, with one exception. Workers in logging and lumbering who work on a public holiday must be paid regular pay (rather than time and one-half the regular rate) for all time worked, in addition to the lump sum payment to which they are entitled.

Construction workers and workers employed in logging and lumbering who are represented by a trade union have an option as to payment for public holidays not worked. Where a majority of the employees in an appropriate bargaining unit are represented by a trade union, the union and the employer may, by agreement in writing, elect that the workers be paid regular wages for each holiday, instead of a lump sum payment.

## **Alberta**

In Alberta, a general holiday order requires employers to give their employees seven paid holidays a year — New Year's Day, Good Friday, Victoria Day, Dominion Day, Labour Day, Thanksgiving Day and Christmas Day. Various categories of salesmen are excluded from entitlement to public holidays.

The rule is that, if one of the seven "general holidays" falls on a regular working day for the employee and he does not work on that day, he is entitled to his regular wages for the day.

If the employee is hired by the week or month, his wages must not be reduced by reason of his not working on the holiday. If he is paid on a daily or hourly basis, he must be paid at least the equivalent of the



wages he would have earned for his normal hours of work. If his wages are calculated on other than an hourly, daily, weekly or monthly basis, he must receive the equivalent of his average daily earnings, exclusive of overtime, for the four weeks he worked immediately preceding the week in which the holiday occurred.

Where an employee is required to work on a general holiday, he must be paid his regular pay for the day and, in addition, his normal wages for all time worked, or he must be given a holiday with pay at some other time not later than his next annual vacation or on termination of employment, whichever occurs first.

An employee is not entitled to a holiday with pay if he has not worked for his employer for at least 30 days in the preceding 12 months; or if he does not work on the holiday when he has been required or scheduled to do so; or if he is absent without the employer's consent on either of the working days immediately preceding or following the holiday. If such an employee works on a general holiday, he must be paid at least his normal wages for all time worked.

If an employee is not required to work on a general holiday, he must not be required to work on another day of that week that would otherwise be a day of rest, unless he is paid his normal wages for the day, in addition to all other wages due him.

Construction workers in Alberta, with the exception of office staff, must be given holiday pay in a lump sum in lieu of being given a holiday with pay on each of the seven general holidays.

An employer in the construction industry is required to pay each of his employees a sum equal to 2.8 per cent of his regular pay for the period of his employment or the period since he was last paid such sum, whichever is shorter. Pay in lieu of holidays must be given on December 31 of each year or on termination of employment, whichever occurs first.

### **British Columbia**

In British Columbia, an order made under the Annual and General Holidays Act provides for eight paid general holidays a year, the same holidays as those provided for in the federal and Saskatchewan legislation. Another day may be substituted for any of the listed holidays.

The order does not apply to employees covered by a collective agreement under the Labour Relations Act. Also excluded are farm workers, horticultural workers, domestic servants, professional employees and trainees, salesmen of automobiles and other vehicles, mobile homes and heavy duty industrial equipment, and employees

exempted by regulation from the Minimum Wage Acts (e.g., commercial travellers, employees of the Pacific Great Eastern Railway, handicapped employees and supervisory, managerial and confidential employees).

If a holiday falls on a day that is a non-working day for the employee, he must be given a holiday with pay at some other time not later than his next annual vacation, or the day on which he is required to be paid vacation pay where he has not earned an annual vacation, or on termination of employment, whichever occurs first.

An employee who is not required to work on a general holiday that would otherwise be a working day must be paid his regular pay for the day. If he is paid by the week or month, his wages must not be reduced by reason of his not working on a holiday. If he is paid on any other basis, he must receive the equivalent of a normal day's pay.

Where an employee's working hours vary from day to day, or where his wages are not calculated on a time basis, his pay for a general holiday is to be deemed to be the average of his daily earnings, exclusive of overtime, for the days he has worked in the four-week period immediately preceding the week in which the holiday occurs.

As in Alberta, an employee who is not required to work on a general holiday must not be required to work on another day of that week that would otherwise be a day of rest, unless he is paid at his regular rate for all hours worked, in addition to all other wages due him.

With regard to pay for work performed on a general holiday, the order distinguishes, as does the Canada Labour (Standards) Code, between employees employed in a "continuous operation" and other employees. A "continuous operation" is defined as an operation or service normally carried on without regard to Sundays or public holidays.

The general rule is that, where an employee is required to work on a holiday, he must be paid not less than time and one-half his regular rate of pay for all hours worked and, in addition, must be given a holiday with pay at some other time not later than his next annual vacation or the day on which he is required to be paid his accrued vacation pay, or on termination of employment, whichever occurs first.

Where an employee employed in a "continuous operation" is required to work on a holiday, he must, in addition to his regular rate of pay for the day, either be paid not less than time and one-half his regular rate for all hours worked or be given a holiday with pay at some other time (as above).

For purposes of these provisions, an employee's "regular rate" is to be deemed to be the average of his hourly earnings, exclusive of overtime, for the hours he has worked in the four-week period immediately preceding the week in which the holiday occurs.

An employee is not entitled to pay for a general holiday that occurs in his first 30 days of employment. An employee is also excluded from holiday benefits if he has not earned wages for at least 15 days during the 30 calendar days immediately preceding the holiday.

Where certain employees of an employer are bound by a collective agreement, and other employees of the same employer are entitled to the general holidays provided for in the order, the employer may, with the approval of the Board of Industrial Relations, substitute a holiday specified in the agreement for a general holiday under the order, so that all his employees will be entitled to a holiday on the same day.

## **Manitoba**

In Manitoba, the Employment Standards Act provides for seven paid general holidays a year—the same holidays as those provided in Alberta. Under certain conditions, another day may be substituted for any of the holidays named in the Act.

The holiday provisions do not apply to independent contractors, persons employed in agriculture, fishing, fur farming, dairy farming or growing horticultural or market garden products for sale, domestics in private homes, or students and practitioners of professions governed by statute.

An employee who does not work on a holiday that falls on a regular working day is entitled to be paid at least the equivalent of the wages he would have earned on that day. When an employee's wages vary from day to day, his holiday pay must be at least equivalent to his average daily earnings, exclusive of overtime, for the days he worked during the 30 calendar days preceding the holiday. The holiday pay must be paid whether or not the employee is on the employer's payroll at the time of the general holiday, unless the employee has voluntarily terminated his employment before that day.

Should a holiday occur on a day that is a non-working day for the employee, he must be granted a day off with pay in lieu of the holiday not later than at the time of his next annual vacation or at a time convenient to him and his employer.

If New Year's Day, Dominion Day or Christmas Day falls on a Saturday or Sunday that is a non-working day for the employee, he must

be given a holiday with pay on the working day immediately before or after the holiday.

An employer must not require an employee who has not worked on the holiday to work on another day in the holiday week that would otherwise be his day of rest, unless he is paid one and one-half times his regular rate for the work done on that day.

An employee who is required to and does work on a general holiday is entitled to his regular pay for the day and, in addition, to one and one-half times his regular rate for all time worked.

An employee is not entitled to holiday pay in the following situations: if he has not earned wages on at least 15 days during the 30 calendar days immediately preceding the holiday; if he did not report for work in response to a call from the employer, except where he is dismissed or laid off by his employer or ill; or if he is absent without the employer's consent on the regular working day immediately preceding or following the holiday, unless absent because of established illness. However, an employee who is not entitled to holiday pay for any of the above reasons must be paid at the overtime rate if he works on the holiday.

Employees in the construction industry are entitled to a lump sum in lieu of paid holidays. Each employee must be paid 2 per cent of his total gross wages, exclusive of overtime, for the calendar year. This amount must be paid by December 31 or on termination of employment. Where an employee in the construction industry is required to work on a holiday, he must be paid at one and one-half times his regular rate for the time worked, in addition to the lump sum.

Special provisions are also applicable to employees in a continuously operating plant, seasonal industry, place of amusement, gasoline service station, hospital, hotel or restaurant, or in domestic service other than in private homes. For these employees, equivalent compensatory time off may be substituted for overtime pay for holidays worked. The time off must be granted within 30 days and the employee must be given at least two days' notice of his day off. At the request of the employee, he and his employer may agree to a later date.

A special Act in Manitoba deals with the observance of Remembrance Day. Except in farming and certain essential services, work may not be performed except by permit from the Minister of Labour. Overtime provisions are not applicable on Remembrance Day. Any employee, other than a watchman, furnace tender or janitor, who is required to work and who is paid at his regular rate of pay must be



granted equivalent compensatory time off, without loss of pay, within 30 days.

## **Ontario**

The Ontario Employment Standards Act requires the payment of overtime pay for work done on seven public holidays. The holidays are New Year's Day, Good Friday, Victoria Day, Dominion Day, Labour Day, Thanksgiving Day and Christmas Day. If New Year's Day, Dominion Day or Christmas Day falls on a Sunday, the following day is to be considered a holiday. Where an employee works on any of these holidays, he must be paid not less than one and one-half times his regular rate. The employee's regular rate of pay must not be reduced in order to conform with this requirement.

Overtime pay does not have to be paid to an employee who, in the opinion of the Director of Employment Standards, is guaranteed more favourable benefits in respect of work performed on a holiday under an agreement or arrangement with his employer.

Certain categories of workers are excluded from the holiday provisions of the Act. Among these are domestic servants, persons engaged in commercial fishing, professional and managerial employees, farm workers, resident janitors, commission salesmen, taxi drivers, ambulance drivers and their helpers, and seasonal employees in the hotel, motel, tourist resort, restaurant and tavern industry (who do not work more than 16 weeks in a year and are provided with room and board).

## **Nova Scotia**

In Nova Scotia, the general minimum wage order provides that, if an employee is required to work on a holiday which is not a regular working day for that employee, the employer must either pay him at the rate of time and one-half the minimum rate, or grant him time off equivalent to one and one-half hours for every hour worked on the holiday. The same conditions are laid down for workers in road building and heavy construction and for workers in beauty parlours. "Holiday" is not defined in the orders, but as defined in the provincial Interpretation Act, covers nine holidays.

Employees in a motel, hotel, restaurant, tourist resort or hospital may be paid the regular straight-time rate for work done on a holiday.

## **OTHER LEGISLATION DEALING WITH HOLIDAYS**

Provisions in the minimum wage order of Manitoba deal with the



question of pay for public holidays to the extent of prohibiting deductions from the minimum wage for time not worked on a holiday.

Workers are protected against a reduction in the minimum wage for time not worked on a general holiday (as listed above) which falls on a regular working day. Where an employee does not work on a holiday but does work the regularly scheduled hours on all the other working days in the week, he is to be deemed, for the purpose of determining the minimum amount of wages to be paid to him for that week, to have worked regular hours on the holiday. An employee does not lose the benefits of this provision through being absent on either the day before or the day after the holiday because of established illness or with the employer's consent.

Under the Municipal Act of British Columbia, shops in all municipalities must be closed on Christmas Day and the day immediately following, New Year's Day, Good Friday, Dominion Day, Victoria Day, Labour Day, Remembrance Day, the Queen's birthday, Thanksgiving Day and any day designated as a provincial or municipal holiday. There is also legislation in Newfoundland requiring shops to be closed on 12 specified public holidays and on one additional holiday fixed by the municipality.

The Québec Commercial Establishments Business Hours Act, which went into force on January 1, 1970, requires shops to remain closed on New Year's Day, Easter Monday, St. Jean Baptiste Day or the day following if June 24 is a Sunday, Dominion Day or the day following if July 1 is a Sunday, Labour Day, Thanksgiving Day, Christmas Day or any other day fixed by proclamation of the Lieutenant Governor in Council. Shops must not open before 1 p.m. on Boxing Day or on January 2.

Provisions prohibiting work on specified public holidays except with a permit, stipulating that certain holidays must be observed as paid holidays, or requiring the payment of an overtime rate for work done on specified holidays are regular features of the decrees under the Québec Construction Industry Labour Relations Act and Collective Agreement Decrees Act and of industrial standards schedules in Alberta, Newfoundland, New Brunswick, Nova Scotia, Ontario, Prince Edward Island and Saskatchewan. These provisions, while regulating a considerable portion of industry, particularly in Québec, apply only to certain trades and areas in the province concerned. They are not dealt with in this publication.

## FAIR EMPLOYMENT PRACTICES

Fair employment practices Acts prohibiting discrimination in hiring and conditions of employment and in trade union membership on grounds of race, colour, religion or national origin have been enacted in all Canadian jurisdictions. A special Act to prevent discrimination in employment on grounds of sex or marital status is in effect in Ontario.

The Canada Fair Employment Practices Act applies to employment in industries within the legislative jurisdiction of the Parliament of Canada, and covers all employers within that jurisdiction, with two exceptions: (1) employers who employ fewer than five employees, and (2) nonprofit charitable, philanthropic, educational, fraternal, religious or social organizations or organizations operated primarily to foster the welfare of a religious or racial group.

Similar laws are in force in all provinces but Newfoundland. The Newfoundland Human Rights Code, enacted in 1969, will be proclaimed in effect.<sup>1</sup> Québec and Saskatchewan have separate fair employment practices Acts. Fair employment practices provisions form part of the Human Rights Acts of Alberta, British Columbia, Manitoba, New Brunswick and Nova Scotia, and of the Human Rights Codes of Newfoundland, Ontario and Prince Edward Island.

In addition to prohibiting discrimination in employment and trade union membership on grounds of race, colour, religion or national origin, the British Columbia, Manitoba, Newfoundland and Québec Acts forbid discrimination in these areas on grounds of sex. The British Columbia and Newfoundland Acts provide, however, that discrimination because of sex, where based on a *bona fide* occupational qualification, is not a violation of the Act. The Québec Act states that any distinction, exclusion or preference based on the inherent requirements of a particular job is not to be considered discrimination. The Québec legislation forbidding discrimination in employment on the basis of sex is not supplemented by equal pay legislation. Québec is the only province which has not enacted an equal pay law.

In Manitoba, discrimination is prohibited in membership of trade unions, employers' organizations and other occupational groups on grounds of marital status.

Three provinces—British Columbia, Newfoundland and Ontario—make it unlawful to discriminate in employment and trade union membership on grounds of age. The British Columbia Human Rights Act

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<sup>1</sup> The Code was proclaimed in force from March 3, 1971.

and the Newfoundland Human Rights Code forbid discrimination on grounds of age against persons between the ages of 45 and 65. In Ontario, a separate Act, the Age Discrimination Act, prohibits discrimination against persons between the ages of 40 and 65, including job advertising that would limit the employment opportunities of such persons.

In Newfoundland, discrimination is forbidden in employment and trade union membership, and in all other areas covered by the Human Rights Code, on grounds of political opinion.

Each of the provincial Acts covers most employers within the jurisdiction of the province. In Québec, as under the federal Act, employers with fewer than five employees are exempted. Except in Manitoba, the Acts do not apply to domestic service in private homes. In Nova Scotia, however, domestic servants are excluded only if they are employed and living in a single family home.

Seven of the provincial Acts exclude nonprofit charitable, philanthropic, fraternal, religious or social organizations and organizations that are operated primarily to foster the welfare of a religious or racial group and that are not operated for private profit. In Manitoba and Ontario, such organizations are covered by the Act *except* in any case where race, colour, creed, nationality, ancestry or place of origin (or, in Manitoba, sex) is a reasonable occupational qualification. In Nova Scotia, exclusively religious or ethnic nonprofit organizations operated primarily to foster the welfare of a religious or ethnic group are excluded, but only in regard to their dealings with members of the same religious or ethnic group.

Educational institutions are excluded in Alberta, British Columbia, Newfoundland, New Brunswick, Prince Edward Island and Québec, but certain exceptions are provided for in British Columbia and Newfoundland. In British Columbia, schools operating under the Public Schools Act are not exempted. The Newfoundland Human Rights Code expressly states that its provisions are not prejudicially to affect the denominational education system of the province. Various legally recognized educational bodies and certain educational officials are excluded. In Manitoba and Ontario, educational institutions are covered by the Act, unless, in any case, race, colour, creed, nationality, ancestry or place of origin is a reasonable occupational qualification. In Saskatchewan, educational institutions are also covered but the right of a school or board of trustees to hire persons of a particular religion where religious instruction forms or can form part of the instruction provided is recognized.

The Québec Act exempts the directors or officers of a corporation, managers, superintendents, foremen and persons who represent the employer in his relations with his employees. In Newfoundland, any legislation or agreement giving preference to Newfoundland workmen, material or equipment is not to be affected by any provision of the Human Rights Code.

In all provinces except British Columbia, the prohibitions of the Act apply to the provincial Government in the same way as to private employers.

All the Acts forbid discrimination on grounds of race, colour, religion and national origin but these prohibitions are expressed in somewhat different terms. The Newfoundland, Prince Edward Island and Saskatchewan Acts include "religious creed" as well as "religion." In place of "religion," the Ontario Act specifies "creed" and the Alberta Act specifies "religious beliefs." The Manitoba and Nova Scotia Acts refer to both "religion" and "creed." "National origin" is defined in the federal and New Brunswick Acts to include nationality and ancestry. Discrimination is forbidden on the basis of "ancestry or place of origin" in Alberta; "nationality, ancestry or place of origin" in British Columbia, Manitoba and Ontario; "ethnic or national origin" in Nova Scotia, Prince Edward Island and Saskatchewan; "ethnic, national or social origin" in Newfoundland; and "national extraction or social origin" in Québec.

The Québec Act defines "discrimination" as "any distinction, exclusion or preference made on the basis of race, colour, sex, religion, national extraction or social origin, which has the effect of nullifying or impairing equality of opportunity or treatment in employment or occupation."

On any of the above-mentioned grounds an employer is forbidden to refuse to employ or to discharge or to discriminate in any other way against any person in regard to employment or any term or condition of employment.

The Acts contain further prohibitions regarding the publication of advertisements, the use of application forms and the making of inquiries, in connection with the hiring of an employee by an employer, which express or imply discrimination on any of the forbidden grounds, including age in British Columbia, sex in Manitoba, and political opinion in Newfoundland, or which require an applicant to furnish information as to his race, colour, religion or national origin.

Under most of the Acts a refusal to employ, or a limitation, specification or preference as to race, colour, religion or national origin



which is based upon “a *bona fide* occupational qualification” is permitted. A provision to this effect is contained in the federal, Alberta, British Columbia, Newfoundland, New Brunswick and Saskatchewan Acts. Similarly, the Québec law states that any distinction, exclusion or preference based on the inherent requirements of a particular job is not to be considered discrimination.

With regard to age discrimination, certain exceptions are permitted. The prohibitions of the British Columbia and Newfoundland Acts do not apply to the termination of employment because of the terms or conditions of any *bona fide* retirement or pension plan; the operation of the terms or conditions of any *bona fide* retirement or pension plan which have the effect of a minimum service requirement; or the operation of the terms or conditions of any *bona fide* group or employee insurance plan.

The Ontario legislation is not to affect the operation of any *bona fide* retirement or pension plan or the terms or conditions of any *bona fide* group or employee insurance plan. The Ontario Human Rights Commission may, with the approval of the Lieutenant Governor in Council, exempt designated occupations from the Act.

The prohibitions noted above are applicable to employment agencies as well as to employers, and the federal, Newfoundland, Prince Edward Island and Saskatchewan Acts forbid an employer to use an employment agency that practises discrimination against persons seeking employment. In the New Brunswick and Nova Scotia Acts, the employment agency is specifically forbidden to discriminate against any person seeking employment.

Trade unions (in Québec, associations of employees; in Nova Scotia, employees' organizations) are forbidden to exclude any person from membership, to expel or suspend any of their members, or to discriminate in any other way against a member or other person.

The Alberta, Manitoba and Québec laws also forbid employers' associations to discriminate in admitting, suspending or expelling a member. A similar prohibition is directed in Nova Scotia at professional, business or trade associations that control admission to or the practice of any occupation or calling or admission to any business or trade, and in Manitoba at occupational associations.

In the federal jurisdiction and in all provinces except Québec, employers and trade unions may not discharge or otherwise discriminate against any person for making a complaint under the Act.

The administration of the Canada Fair Employment Practices Act and the Acts of most provinces is entrusted to the Minister of Labour



and the Saskatchewan legislation to the Attorney General. The Manitoba and Nova Scotia laws do not specify the Minister responsible. (The Manitoba Act has been assigned to the Attorney General and the administration of the Nova Scotia Act is one of the duties of the Minister of Public Health.)

The human rights laws of Manitoba, New Brunswick, Nova Scotia and Ontario are administered by Human Rights Commissions. In Nova Scotia, the administrative functions under the Act are performed by a Director of Human Rights, who is the Chief Executive Officer and a member of the Commission.

The federal, British Columbia, Newfoundland and Saskatchewan legislation is administered by a Director and the Alberta Act by an Administrator. The British Columbia Act provides also for a Human Rights Commission, which is a permanent board of inquiry, with power to issue binding orders.

In Québec, the Minimum Wage Commission is the administrative agency, and in Prince Edward Island, the Minister of Labour and Manpower Resources is responsible for investigating complaints.

The provisions for enforcement of the fair employment practices provisions are similar to those laid down in most of the equal pay laws. Action in all cases is initiated by the filing of a written complaint. The Nova Scotia Human Rights Act provides, in addition, for the investigation of a case where the Human Rights Commission "has reasonable grounds for believing that a complaint exists," and the Manitoba Commission is authorized to make an inquiry on its own initiative.

Most of the Acts provide first for an informal investigation into a complaint by an officer who is directed to "endeavour to effect a settlement." In Manitoba, the Human Rights Commission is to proceed with an immediate inquiry, giving the parties full opportunity to be heard. In the other jurisdictions (except Prince Edward Island), a complaint not settled at the earlier stage may be referred to a commission or board for a more formal inquiry, including a hearing.

The commission that may be set up in the federal jurisdiction and in most provinces is an *ad hoc* body appointed by the Minister, consisting of one or more persons. It is referred to as an industrial inquiry commission (federal Act); a board of inquiry (Alberta, New Brunswick, Nova Scotia and Ontario); a commission (Saskatchewan); and a Human Rights Commission (Newfoundland). Under the Nova Scotia Act, the Minister is required to appoint a board of inquiry, unless the Governor in Council otherwise orders.

In British Columbia, if no settlement is reached, the Director may refer the complaint to the Human Rights Commission, a permanent body established under the Act. In Québec, the Minimum Wage Commission, one of its members or a person appointed by it may investigate the matter further. The Commission must report on the inquiry to the Minister of Labour and Manpower. In Prince Edward Island, the Minister is required to make a full inquiry, to decide the course of action that ought to be taken and to issue an order to this effect.

Under the federal law and the laws of eight provinces (all except British Columbia and Québec), upon receipt of the board's or commission's recommendations, the Minister may issue an order to put them into effect. In Manitoba, New Brunswick, Nova Scotia and Ontario, the Minister acts on the recommendation of the Human Rights Commission. Failure to comply with an order is an offence under the Act. In New Brunswick, the Human Rights Commission, in addition, is authorized to issue an order that must be complied with.

The Manitoba and Newfoundland Acts provide a right of appeal (to a judge of the Court of Queen's Bench and a judge of the Supreme Court, respectively) from the Minister's order. In Alberta, where a board of inquiry has found a complaint to be justified, the person against whom the finding was made may lodge an appeal in the district court.

In British Columbia, if the Human Rights Commission decides that the Act has been contravened, it must make an order directing the person named in the complaint to cease the contravention, and may order the person to take remedial action. Such an order is final and may be enforced by filing a copy in the Supreme Court.

Prosecution under the Acts, for which the consent of the Minister is required (except in British Columbia), may result in a fine.

In British Columbia, the Director—and in Newfoundland, New Brunswick, Nova Scotia, Ontario and Prince Edward Island, the Minister—is authorized to seek an injunction prohibiting a person who has been convicted of a violation of the Act from continuing the violation.

In Manitoba, any person may seek an injunction to restrain any person responsible for depriving, abridging or otherwise restricting any person or class of persons in the enjoyment of any right guaranteed by the Act.

The Acts place a duty on the Administrator in Alberta, on the Director in British Columbia and Newfoundland, on the Human Rights Commission in Manitoba, New Brunswick, Nova Scotia and Ontario,

and on the Minister in Prince Edward Island, to forward the principles underlying the Act and to develop and conduct educational programs designed to eliminate discriminatory practices.

Authority is given to the Minister in the federal, Newfoundland and Saskatchewan Acts and to the Governor in Council in the Nova Scotia Act to undertake or cause to be undertaken "such inquiries and other measures" as appear advisable to promote the purposes of the Act.

The Nova Scotia Human Rights Commission may approve programs of government, private organizations or persons designed to promote the welfare of any class of individuals, and any approved program is to be deemed not to be a violation of the prohibitions of the Act.

## **ONTARIO WOMEN'S EQUAL EMPLOYMENT OPPORTUNITY ACT**

The Ontario Women's Equal Employment Opportunity Act, 1970, is designed to promote equal employment opportunities for women workers. It may, however, be invoked by a male worker alleging employment discrimination because of sex or marital status.

Under this Act, an employer with six or more employees is forbidden to: (a) refuse to refer or recruit any person for employment; (b) dismiss or refuse to employ or to continue to employ any person; (c) refuse to train, promote or transfer an employee; or (d) subject an employee to probation or apprenticeship or enlarge a period of probation or apprenticeship, because of sex or marital status. An exception is permitted where the work in question cannot reasonably be performed by the person or employee because of sex or marital status.

The Act makes it unlawful for an employer to establish or maintain any employment classification or category that excludes persons from employment or continued employment on grounds of sex or marital status, unless the work cannot reasonably be performed by persons of that sex or marital status.

An employer contravenes the Act if he maintains separate lines of progression for advancement or separate seniority lists based on sex or marital status that adversely affect any employee, unless sex or marital status is a reasonable occupational qualification for the work.

It is now also made illegal to label jobs in "help wanted ads" as male or female. Job advertisements, notices, signs or publications that

expressly limit a position to applicants of a particular sex or marital status are prohibited.

Employment agencies are forbidden to discriminate on grounds of sex or marital status in acting upon applications for their services or in referring applicants for employment.

The employment opportunity provisions are applicable to the Crown, as well as to private employment. Regulations may be made exempting any class of employers or employees from the application of the Act.

The Director of the Ontario Women's Bureau is responsible for the enforcement of the Act, subject to the direction of the Minister of Labour. Any person who has reasonable grounds for believing that the Act has been contravened may file a written complaint with the Director. The initial stage of the investigation of a complaint is similar to that provided for in the Ontario Human Rights Code. An attempt is made to settle the matter through an inquiry by the Director. Failing settlement, an *ad hoc* board of inquiry may be set up. More formal statutory procedures are laid down for the board of inquiry than for a board established under the Human Rights Code and, instead of submitting recommendations to the Minister, it has power to make an order requiring full compliance and the taking of remedial action. An appeal may be made from the board's order to the Court of Appeal.

As with Ontario equal pay legislation, investigations may be made under the Act in the absence of a formal complaint. The Director has the same wide inspection powers as the Director under the Employment Standards Act and may enter premises, inspect records and question employees.

Persons who make a complaint or participate in any proceedings under the Act are protected against dismissal or other penalty.

Where the parties reach agreement in regard to a complaint, a settlement incorporating the agreement must be put in writing and signed by the parties. If the matter is already before a board of inquiry, it is not binding until approved by the board. The Director is a party to any such settlement. A settlement is binding on the parties and enforceable in court. If a party to a settlement does not comply with its terms, the Director may file a complaint, which is acted upon in the same manner as other complaints.

Where it appears to the Director that a complaint will not be settled through informal investigation and conciliation, she must make a recommendation to the Minister as to whether or not a board of inquiry should be appointed, and the Minister may, in his discretion,



appoint a board of one or more persons to hear and decide the complaint.

The Director is responsible for the handling of the complaint before a board of inquiry. The parties to a proceeding before the board are the Director, the person alleged to have contravened the Act, the complainant, any other person named in the complaint as having been discriminated against in regard to employment or maternity leave, and any other person specified by the board. The latter must be given an opportunity to be heard if he objects to his inclusion as a party to the proceedings.

Notice of a hearing before the board must be served at least 10 days in advance. The notice must contain specified information, including a concise statement of the issues. Hearings are to be open to the public except where the board finds that intimate financial, personal or other matters may be disclosed, in which case it may hold *in camera* sessions to protect the interests of the persons involved.

The board has power to compel witnesses to appear, to examine them under oath and to require the production of documents. It may admit evidence not given under oath. Persons are liable for contempt of the board as for contempt of court. Contempt proceedings may be instituted in the High Court.

A party to a proceeding may be represented by counsel or an agent, may call and examine witnesses and conduct cross-examinations. Counsel for a witness may be present to advise his client but may take no other part in the hearing without leave of the board. A witness is protected against self-incrimination.

A written record of the evidence must be kept, and the written record and all other pertinent documents form the record of the case.

Where the board decides that a party has contravened the Act, it may make an order requiring compliance with the provision contravened and, in case of an offence against the employment or maternity leave provisions, may direct the offending party to rectify the injury caused to the aggrieved person or compensate her for it. The board's decision must be in writing and, if requested by a party, reasons for the decision must be given. A copy of the decision, including reasons, must be served on the parties, together with a notice stating rights of appeal. A board order becomes enforceable as an order of the Supreme Court by filing it with the Court.

Any party to a hearing before the board may appeal from the board's order to the Court of Appeal for a final decision. The Minister



may designate counsel to assist the Court. The appeal may be made on questions of law or fact or both.

An individual who contravenes the legislation or fails to comply with a board order is liable on summary conviction to a maximum fine of \$800. A fine of up to \$3,000 may be imposed on a corporation, trade union, employers' organization or employment agency. The Minister may apply to the Supreme Court for an injunction prohibiting a person convicted of an offence from continuing the conduct constituting the offence.

## **NOTICE OF TERMINATION OF EMPLOYMENT**

Six provinces—Manitoba, Newfoundland, Nova Scotia, Ontario, Québec and Saskatchewan—have legislation requiring an employer to give notice to the individual worker whose employment is to be terminated. Four of these provinces place an equal obligation on the employee to give notice to his employer on quitting his job. In addition, Ontario and Québec have enacted legislative provisions requiring an employer to give advance notice to the Minister of Labour of a projected termination of employment or layoff of a group of employees; in Ontario, notice of a group termination of employment must also be given to each employee. The purpose of advance notification of a large-scale termination of employment is to permit government authorities to develop and carry out programs for the re-establishment in other jobs of the employees affected.

The legislation requiring notice of termination of employment forms part of the province's labour code in Manitoba, Ontario and Saskatchewan (Part III of the Manitoba Employment Standards Act, Part 1A of the Ontario Employment Standards Act and Part IV of the Saskatchewan Labour Standards Act). The Ontario legislation became effective on January 1, 1971. In Nova Scotia, notice provisions are contained in the provincial minimum wage law. Newfoundland has a separate Act, the Employment (Notice of Termination) Act, in force from June 1, 1970. The provisions in Québec in regard to individual notice of termination of employment are contained in the Civil Code; requirements with regard to advance notice of collective dismissals are laid down in Section 45 of the Manpower Vocational Training and Qualification Act and a general regulation made under it.

## **Manitoba**

In Manitoba, an employer or employee in any work or occupation, except farming, must give notice of termination of employment and, except in the case of a person paid less frequently than once a month, the period of notice required is one regular pay period. If employees are paid less often than once a month, reasonable notice must be given. Notice of termination is not required if an employee is hired for a fixed period.

The requirements for giving notice do not apply if a general custom or practice prevails in an industry which is contrary to the terms of the Act or where different conditions concerning notice are established by collective agreement. If employment is terminated during an employee's first two weeks in a job, notice is not required unless the employer and employee have agreed in writing that the requirements of the Act will apply.

An employer is permitted to establish a practice whereby employment may be terminated with a shorter period of notice than that provided for in the Act, and the practice is considered to have been established one month after he has notified each of his employees in writing of the practice and has posted a notice setting out the terms of the practice. Each new employee must be informed of the practice by written notice at the time employment begins.

Complaints of failure to give the required notice may be made in writing to the Minister of Labour within a period of 90 days after employment is terminated. A procedure is laid down in the Act for the settlement of such complaints.

## **Saskatchewan**

In Saskatchewan, an employer is forbidden to discharge (unless for just cause other than shortage of work) or lay off an employee who has been in his service continuously for three months or more without giving him at least one week's written notice. "Layoff" is defined as the temporary termination of an employee's services for a period of more than six consecutive days.

An employee who has been given written notice is entitled, in respect of the period of notice, to his actual earnings during the week or his normal wages for one week, exclusive of overtime, whichever amount is greater. If notice is not given, the employee is entitled to his normal wages for one week, exclusive of overtime. Where an employee's wages vary from week to week, his normal weekly wage is to be obtained

by averaging his earnings, exclusive of overtime, for the four-week period immediately preceding the date on which notice was given or, if no notice was given, the date of discharge or layoff.

The requirement to give notice applies to all employees except those employed in farming, ranching or market gardening, employees employed in family undertakings and those whose services are entirely of a managerial character.

## **Nova Scotia**

In Nova Scotia, as in Saskatchewan, an employer is required to give an employee with three months' continuous service or more at least one week's written notice of termination of employment or layoff. The provisions in these two provinces are the same so far as the employer's obligation is concerned. The Nova Scotia Act also requires an employee with three months' service or more to give his employer at least one week's notice of his intention to terminate his employment. The Act applies to all employees except farm labourers and domestic servants.

When employment is terminated for any reason or after any period of employment, the employer is required to pay all wages owing within ten days of termination.

The Nova Scotia provisions regarding notice of termination of employment do not apply where another period of notice or another time of payment of wages is provided for in a written contract of employment between an employer and an employee or in a collective agreement between the employer and a trade union of which the employee is a member.

## **Newfoundland**

In Newfoundland, both the employer and the employee are required to give notice of termination of employment. Where an employee is paid once a month or more often, the required period of notice is one regular pay period. Where the employee is paid less often, reasonable notice must be given. In lieu of notice, an employer may pay an employee the normal wages, exclusive of overtime, that he would have earned during the period of notice.

Notice of termination is not required during the first month of a probationary period established by mutual arrangement, or where the employee is hired for a fixed period or for the performance of specified work, unless by mutual agreement the work is continued after the end of the period or the completion of the work.

The requirements of the Act regarding the period of notice do not apply where a different period is established in a collective agreement, or in a written agreement of employment between the employer and employee, if the notice period is of equal length for both parties. Further, a well established general custom or practice in any industry respecting the period of notice may be continued, in lieu of the period of notice provided for in the Act.

All employers and employees within the jurisdiction of the province are covered by the Act. Regulations may be made exempting any industry or class of persons from coverage.

## **Ontario**

### *Individual Notice*

In Ontario, an employer is required to give notice in writing to an employee whose employment is to be terminated, provided the employee has completed three months' service or more. The length of notice varies with the period of employment, as follows:

3 months to 2 years .....	1 week
2 to 5 years .....	2 weeks
5 to 10 years .....	4 weeks
10 years or more .....	8 weeks

A period of employment constitutes the period between the time employment first began and the time that notice was or should have been given. Service before the coming into force of Part 1A is to be counted. Successive periods of employment may be accumulated, unless there has been a break of more than 13 weeks in employment. In such case the period of last employment constitutes the length of service for purposes of notice.

### *Group Notice*

The group notice requirement applies when an employer plans to terminate the employment of 50 or more persons within four weeks or less. The length of notice is related to the number of workers involved. The minimum written notice that must be given by the employer to the employee and to the Minister of Labour is 8 weeks where the employment of 50-199 persons is to be terminated in any four-week period, 12 weeks for 200-499 persons, and 16 weeks for 500 or more persons.

Where not more than 10 per cent of the persons employed in an



establishment are to be dismissed in a four-week period, and these total 50 or more persons, the requirements for notice in case of individual dismissal apply, *unless* the termination is caused by the permanent discontinuance of all or part of the employer's business.

Persons who have been employed for less than three months are not to be counted in determining the number employed in an establishment and are not entitled to notice.

In case of a collective dismissal, the employer is required to co-operate with the Minister during the period of notice in any action or program designed to re-establish the dismissed workers in employment.

Employees who have received notice of a collective termination of employment are required to give written notice to their employer that they intend to quit their jobs. One week's notice is obligatory for an employee who has worked for the employer for less than two years, and two weeks' notice for one who has been employed for two years or more.

A number of provisions are applicable to both individual and group notice.

Where notice is given, employment must continue until the notice has expired. The length of notice may not include any week of vacation, unless the person, after receiving the notice, agrees to take his vacation during the notice period. Where a person continues to be employed after the expiry of the notice for a period exceeding the length of the notice, he must again be given notice before his employment may be terminated.

Under the legislation, the employer is required to give the prescribed notice or to pay the wage or salary equivalent. The employer terminating the employment of an employee without notice must notify him in writing to this effect and pay him the equivalent of the wages he would have earned for working regular hours during the notice period. Compensation payable in lieu of notice is deemed wages for purposes of the Act.

The employer is forbidden to alter the wage rate or any other term or condition of employment of a person to whom notice has been given, and upon the expiry of the notice must pay him the wages and vacation pay to which he is entitled.

The Act covers layoffs other than "temporary layoffs," as defined. Notice of indefinite layoff is deemed to be notice of termination of employment.

A "temporary layoff" is defined as: (1) a layoff of not more than 13 weeks in any period of 20 consecutive weeks; (2) a layoff of more than 13 weeks where (a) the person continues to receive payments from the employer, (b) the employer continues to make pay-



ments for the benefit of the person laid off under a *bona fide* retirement or pension plan or under a *bona fide* group or employee insurance plan, (c) the person laid off receives supplementary unemployment benefits, or (d) he is entitled to receive supplementary unemployment benefits but does not receive them because he is employed elsewhere during the layoff; or (3) a layoff of more than 13 weeks where the employer recalls the person within the time fixed by the Director of Employment Standards.

The notice provisions do not apply to a person who is laid off or whose employment is terminated during or as a result of a strike or lockout at his place of work. Also exempted from the requirement to receive notice are: (1) a person who is laid off after (a) refusing an offer by his employer of reasonable alternate work or (b) refusing alternate work made available to him through a seniority system and (2) a person on layoff who does not return to work within a reasonable time after being requested to do so by his employer.

An employer is not required to give notice to a person employed for a definite term or task. Where, however, a term or task exceeds a period of 12 months or the person continues to be employed for three months or more after completion of the term or task, the notice provisions apply.

A person who has been guilty of wilful misconduct, disobedience or wilful neglect of duty that has not been condoned by the employer is not entitled to notice, and notice is not required where a contract of employment becomes impossible of performance or is frustrated by a fortuitous or unforeseeable event or circumstance.

An employee may terminate his employment forthwith upon notice if his employer has been guilty of a breach of the terms and conditions of employment.

The construction industry has been exempted from the requirement to give notice. Other employers are covered, including the Crown and its agencies. Those entitled to notice include professional employees, teachers, commercial fishermen, domestic servants, farm workers and salesmen.

## Québec

### *Individual Notice*

In Québec, Section 1668 of the Civil Code requires a domestic servant, journeyman or labourer engaged by the week, month or year to give one week's notice of termination of employment if hired by the

week, two weeks' notice if by the month, and a month's notice if by the year. The employer must give similar notice where an employee's services are no longer required. In lieu of notice, the employer may pay the employee the wages he would have earned during the notice period.

Some decrees under the Québec Collective Agreement Decrees Act require the giving of notice of termination of employment.

*Group Notice*

Under the Québec legislation respecting collective dismissals, an employer who, for technological or economic reasons, contemplates the dismissal of 10 or more employees within a period of two months is required to give advance notice to the Minister of Labour and Manpower. The minimum periods of notice required, varying with the number of workers to be dismissed, are:

10 to 100 .....	2 months
100 to 300 .....	3 months
300 and over .....	4 months

"Employee" does not include a seasonal or casual worker or a director or officer of a corporation.

The requirement to give notice does not apply to an employer in the construction industry or to an employer carrying on an undertaking of a seasonal or intermittent nature. The legislation does not apply to an establishment involved in a strike or lockout.

Layoffs are included in the term "dismissal" but the employer does not have to give notice if he lays off employees for an indefinite period of time, unless the layoff will continue for more than six months.

Where a fortuitous or unforeseeable event prevents an employer from giving notice, he must inform the Minister as soon as he is in a position to do so and furnish proof that he was unable to comply with the law. The Minister will then determine, in consultation with the employer, the period of notice that must be given.

The notice, which must be mailed by the employer to the Manpower Branch of the Department, and which becomes effective on the date of mailing, is to contain: (a) name and address of the employer or establishment; (b) nature of the principal product or service; (c) names and addresses of associations of employees; (d) reasons for the collective dismissal; (e) date on which the collective dismissal will be made; (f) full name of each employee likely to be dismissed.

The legislation also requires the employer, at the request of the Minister, to participate immediately in the establishment of a reclassi-

fication committee, whose task is to study and recommend practical measures for the re-establishment of the dismissed employees. The certified trade union or the employees, if there is no union, must be equally represented on the committee. The employer must contribute funds to the committee to the extent agreed upon by the parties. The Manpower Branch of the Department is responsible for the establishment and functioning of such committees.

The parties may, with the Minister's consent and subject to conditions laid down by him, establish a reclassification fund. If necessary, several employers and several certified trade unions may establish a joint fund.

## MATERNITY PROTECTION

Legislation to ensure protection of the health and job security of women workers before and after childbirth is in force in British Columbia, New Brunswick and Ontario.

British Columbia has a special law on the subject, the Maternity Protection Act, 1966. The New Brunswick provisions are Sections 11-13 of the Minimum Employment Standards Act, 1964, a law which regulates various conditions of employment. The Ontario maternity protection provisions form part of the Women's Equal Employment Opportunity Act, 1970.

The Ontario legislation does not apply to employers with fewer than 25 employees. All other employers are covered, including the Crown. Regulations may be made exempting any class of employers or employees from the Act. The British Columbia and New Brunswick laws cover employment in any industry or occupation except farm labour and domestic service (and in British Columbia, horticultural operations).

In Ontario, an employee must have worked continuously for her employer for at least one year in order to be eligible for maternity leave benefits.

All three Acts provide for 12 weeks of maternity leave, six weeks before and six weeks after childbirth, with the postnatal leave being compulsory. On production of a medical certificate showing the expected date of confinement, the employee must be granted a period of leave of up to six weeks preceding the specified date. The Ontario Act stipulates that the period of voluntary leave is to extend to the actual date of delivery.

In Ontario, the employer has the right to require the employee to commence her leave at any time, if the duties of her position cannot reasonably be performed by a pregnant woman or if her performance is materially affected by the pregnancy. The employee must produce a doctor's certificate, when requested to do so by the employer.

The British Columbia and New Brunswick Acts forbid the employer to permit an employee to work during a six-week period following childbirth or during a longer period than six weeks, if recommended in a medical certificate. The Ontario law does not provide for extension of the postnatal leave on medical grounds. It places an obligation on both the employee and the employer to observe the six weeks' compulsory leave, unless a shorter period is recommended in writing by a medical practitioner.

In all three provinces, the right to maternity leave is supplemented by a guarantee that an employee will not lose her employment because of her absence on maternity leave. In Ontario, a woman with a minimum of one year's service is protected against dismissal throughout pregnancy. In British Columbia and New Brunswick, an employer is forbidden to give notice of dismissal, and, in British Columbia, to dismiss an employee, for reasons arising out of absence on maternity leave during a period of 16 weeks.

In Ontario, the employer is required to permit the employee to resume work with no loss of seniority or accrued benefits.

The Ontario provisions are enforced through the filing of a complaint with the Director of the Ontario Women's Bureau or through investigations of inspection staff. A complaint may be filed by any person who has reasonable grounds for believing that the Act has been contravened but the Director may, before filing the complaint, require the consent of the person concerned.

Laws in Alberta and Ontario give authority to the Board of Industrial Relations and the Lieutenant Governor in Council, respectively, to deal with the matter of maternity protection by regulations.

Under a provision of the Alberta Labour Act, enacted in 1947, the Board of Industrial Relations has authority to regulate and prohibit the employment of women during and following pregnancy. The Board has not exercised this authority.

The Ontario Industrial Safety Act, 1964, which provides for the making of regulations on a wide variety of matters to ensure the safety and health of persons employed in industrial establishments, authorizes the making of regulations to regulate the employment of pregnant women in factories and shops. No such regulations have been issued.



## WORKMEN'S COMPENSATION

In each province a Workmen's Compensation Act applicable to most industries and occupations provides for the payment of compensation to a workman or his dependants in case of accident or industrial disease arising out of and in the course of employment. The only exceptions are (1) where the workman is disabled for less than a stated number of days, or (2) where the injury is attributable solely to his serious and wilful misconduct and does not result in death or serious disablement.

The laws are of the collective liability type. Compensation is payable by employers collectively. Compensation, medical expenses and other benefits are paid from a provincial Accident Fund built up by annual assessments, in the form of a percentage of payroll, levied on employers covered by the Act. For assessment purposes, industries are classified according to their hazard and each class is liable for the cost of accidents occurring in that class. No contributions from employees are permitted.

The compensation to which a workman is entitled under the Act takes the place of his right of action, and he may not sue his employer in court for damages for an injury sustained in the course of employment.

Benefits under the Acts include periodic payments to the workman during the period of temporary disablement (in all provinces on the basis of 75 per cent of average earnings, subject to the maximum annual earnings provided in the Act); an award for permanent disability (also based on 75 per cent of average earnings and subject to the ceiling on earnings provided in the Act) in the form of a monthly pension for life or, when disablement is slight, paid in a lump sum; all necessary medical aid, including hospitalization; and rehabilitation. In case of death by accident, fixed monthly payments are made to dependants. In addition to a monthly pension, a widow receives a lump sum payment and an allowance for funeral expenses. In British Columbia and Québec, pensions to widows and children and permanently disabled workmen are tied to the cost of living and adjusted on this basis.

There are two federal laws, one providing for compensation for employment injury to employees of the Government of Canada and the other covering merchant seamen not protected by a provincial Act. The federal Government Employees Compensation Act provides that compensation benefits payable to an employee of the Crown are to be the same as those provided for employees employed in private industry



under the workmen's compensation law of the province in which the federal government employee is usually employed. The right to compensation and the amount of benefits are determined by the provincial Workmen's Compensation Boards, which, by arrangement, handle the adjudication of claims under the federal Act as the agents of the federal Government.

Under the Merchant Seamen Compensation Act, which is administered by a board composed of three officers of the public service, the employer is individually liable for the payment of compensation, and must carry accident insurance to cover his liability.

Further information about the provincial workmen's compensation laws and the two federal compensation Acts is contained in the publication, *Workmen's Compensation in Canada*, published by the Canada Department of Labour and available from Information Canada, Ottawa.

The benefits payable under the provincial Acts are set out in tabular form on the following pages.

# 1. Monthly Benefits to Dependents in Case of Death of Workman

Funeral	Widow or Invalid Widower	Children with Parent	Orphans	Where only dependants are other than consort and child	Maximum
<b>NEWFOUNDLAND</b>					
\$300 <sup>1</sup>	\$100 plus sum of \$200	Under 16, \$35 each <sup>2</sup>	Under 16, \$45 each <sup>2</sup>	Sum to be determined by Board, reasonable and proportionate to pecuniary loss <sup>3</sup>	\$375 <sup>4</sup>
<b>PRINCE EDWARD ISLAND</b>					
\$400 <sup>1</sup>	\$75 plus sum of \$400	Under 16, \$25 each <sup>2</sup>	Under 16, \$35 each <sup>2</sup>	As in Newfoundland. Maximum to parent(s), \$40. Maximum in all, \$60 <sup>3</sup>	75% of workman's average earnings, but Board may waive the 75% restriction where circumstances require it and pay \$75 to widow and \$25 for each child under 16 <sup>4</sup>
<b>NOVA SCOTIA</b>					
\$400 <sup>1</sup>	\$100 plus sum of \$250	Under 18, \$38 each <sup>2</sup>	Under 18, \$45 each <sup>2</sup>	As in Newfoundland. Maximum \$60 each. Maximum in all, \$75 <sup>3</sup>	
<b>NEW BRUNSWICK</b>					
\$500 <sup>1</sup>	\$100 plus sum of \$200	Under 21, if attending school, \$25 each <sup>2</sup>	Under 21, if attending school, \$50 each <sup>2</sup>	As in Newfoundland <sup>3</sup>	75% of \$6,000 <sup>4</sup>
<b>QUÉBEC</b>					
\$600 <sup>1</sup>	\$102 plus sum of \$500	Without age limit, if attending school, \$35.70 <sup>5</sup> each (18 age limit, if not attending school) <sup>2</sup>	Without age limit, if attending school, \$56.10 <sup>5</sup> each (18 age limit, if not attending school) <sup>2</sup>	As in Newfoundland <sup>3</sup>	75% of workman's average earnings <sup>4</sup> . Minimum \$137.70 to widow and one child; \$173.40 to widow and two children; \$209.10 to widow and more than two children <sup>5</sup>
<b>ONTARIO</b>					
\$400 <sup>1</sup>	\$125 plus sum of \$500	Under 16, \$50 each <sup>2</sup>	Under 16, \$60 each <sup>2</sup>	As in Newfoundland. Maximum \$150 <sup>3</sup>	Average monthly earnings of the workman <sup>4</sup> . Minimum \$125 to widow, \$50 to each child or \$60 to orphan child, unless total benefits exceed \$275

\$300 <sup>1</sup>	\$120 plus sum of \$500	Under 10, \$45 each; 10-16 years, \$50 each <sup>2</sup>	Under 10, \$55 each; 10-16 years, \$60 each <sup>2</sup>	Maximum to wholly dependent mother, \$120. Other dependants, as in Newfoundland. Maximum \$30 each. Maximum in all, \$60 <sup>3</sup>	75% of workman's average earnings <sup>4</sup> . Minimum \$120 to widow; \$120 plus amount payable in respect of the child to widow and one child; \$120 plus amount payable in respect of the two eldest children to widow with two or more children
\$300 <sup>1</sup>	\$115 plus sum of \$300	Under 16, \$50 each <sup>2</sup>	SASKATCHEWAN		
			Under 16, \$65 each plus sum not exceeding \$50 at the discretion of the Board <sup>2</sup>	As in Newfoundland <sup>3</sup>	Average monthly earnings of the workman <sup>4</sup> . Minimum \$115 to widow; \$165 to widow and one child; \$215 to widow and two children and \$30 for each additional child
\$350 <sup>1</sup>	\$110 plus sum of \$300	Under 16, \$50 each <sup>2</sup>	ALBERTA		
			Under 16, \$50 each plus an amount not exceeding \$50 to any child under 21 <sup>2</sup>	As in Newfoundland. Maximum to parent(s), \$50. Maximum in all, \$85	
\$265 with additional \$85 for burial or cremation charges <sup>1</sup>	\$137.44 <sup>6</sup> plus sum of \$250	Under 16, \$47.81 each; 16-18 years, if attending school, \$53.78 each; 18-21 years, if attending school, \$59.76 each <sup>2,5</sup>	BRITISH COLUMBIA		
			Under 16, \$53.78 each; 16-21 years, if attending school, \$65.74 each <sup>2,5</sup>	(a) As in Newfoundland. Maximum \$115 to parent(s). (b) If there is widow or orphans, maximum to parent(s), \$115 <sup>3</sup>	

<sup>1</sup> For transporting body for burial, a maximum of \$150 in Québec, of \$125 in Newfoundland, and of \$100 in Alberta, British Columbia, Nova Scotia and Prince Edward Island may be paid. Necessary expenses may be paid in New Brunswick, Ontario and Saskatchewan. In Manitoba, the Board may pay transportation expenses within the province and part of expenses if the body is moved into or from the province. In Alberta and British Columbia, only transportation expenses within the province are allowed. A sum of up to \$50 in Manitoba and Saskatchewan, and up to \$100 in Alberta, may be paid for a burial plot.

<sup>2</sup> Payments to children may be made, at the discretion of the Board, if desirable for a child to continue his education to the age of 21 in Alberta, Newfoundland and Prince Edward Island; to the age of 21 or to the end of the school year in which a child reaches the age of 21 in Nova Scotia or the end of the school term in Saskatchewan; until the child is granted a university degree for the first time or completes a course in technical training in Manitoba; and as long as the child is pursuing his studies in Ontario. In Manitoba, a higher allowance (\$60 a month in respect of a child who is not an orphan; \$70 a month in respect of an orphan child) is payable after the age of 16, thus taking into account increased costs of maintenance and schooling. In Alberta, the allowance to a child 16-21 while attending school is \$55 a month. In Alberta, Newfoundland and Prince Edward Island, payments to invalid children are continued so long as the Board considers the workman would have contributed to the child's support. In other provinces payments are continued until recovery. In Alberta, a higher allowance (\$55 a month) is payable in respect of invalid children, as well as an additional payment in the discretion of the Board not exceeding \$50 a month.

<sup>3</sup> Compensation in these cases is continued only so long as the Board considers workman would have contributed to support.

<sup>4</sup> For maximum annual earnings on which compensation may be based, see Table 2, Column 5.

<sup>5</sup> In British Columbia and Québec, pensions and allowances for widows and children are increased in line with changes in the cost of living. From January 1, 1971, payments in British Columbia rose to \$140.19 (widow), \$48.77, \$54.86 or \$60.96 (child, depending on age) and \$54.86 or \$67.05 (orphan child); and in Québec to \$104.04 (widow), \$36.41 (child) and \$57.22 (orphan child).

## 2. Benefits in Case of Disability

PERMANENT		TEMPORARY		Maximum Earnings Reckoned
Total	Partial	Total	Partial	
NEWFOUNDLAND				
75% of earnings. Minimum \$125 a month or earnings, if less	Proportion of 75% of earnings based on impaired earning capacity estimated from nature and degree of injury <sup>1, 2, 3</sup>	75% of earnings for duration of disability. Minimum \$25 a week or earnings, if less	Proportion of 75% of earnings based on impaired earning capacity estimated from nature and degree of injury, or, if more equitable, 75% of difference in earnings before and after accident for duration of disability <sup>2, 3</sup>	\$6,000 a year
PRINCE EDWARD ISLAND				
75% of earnings. Minimum \$25 a week or earnings, if less <sup>4</sup>	Proportion of 75% of earnings based on impaired earning capacity estimated from nature and degree of injury <sup>1, 2, 3</sup>	75% of earnings for duration of disability. Minimum \$25 a week or earnings, if less <sup>4</sup>	75% of difference in earnings before and after accident or compensation based on impaired earning capacity estimated from the nature of the injury for duration of disability <sup>2, 3</sup>	\$6,000 a year
NOVA SCOTIA				
75% of earnings. Minimum \$150 a month or, if the workman has more than one child under 18, the amount which a widow with the same number of children would receive	Proportion of 75% of earnings based on impaired earning capacity estimated from nature and degree of injury. If disability 15% or more, average earnings must be taken as not less than \$200 a month <sup>1, 2, 3</sup>	75% of earnings for duration of disability. Minimum \$35 a week or earnings, if less	75% of difference in earnings before and after accident for duration of disability <sup>2, 3</sup>	\$6,000 a year
NEW BRUNSWICK				
Average earnings but not in excess of 75% of \$6,000	Amount determined by Board, proportionate to diminution of earning capacity <sup>2</sup>	75% of earnings for duration of disability. Minimum \$30 a week or earnings, if less	If earning capacity diminished by more than 10%, 75% of diminution of earning capacity for duration of disability	\$6,000 a year
QUÉBEC				
75% of earnings. Minimum \$35 a week or earnings, if less	Proportion of 75% of earnings in accordance with the degree of disability <sup>2, 3</sup>	75% of earnings for duration of disability. Minimum \$35 a week or earnings, if less	Proportion of 75% of earnings in accordance with the degree of disability for duration of disability <sup>2, 3</sup>	\$6,000 a year

75% of earnings. Minimum \$175 a month	Proportion of 75% of earnings based on impaired earning capacity estimated from nature and degree of injury <sup>1, 2, 3</sup>	75% of earnings for duration of disability. Minimum \$40 a week or earnings, if less	75% of difference in earnings before and after accident or compensation based on impaired earning capacity estimated from the nature of the injury for duration of disability <sup>2, 3</sup>	\$7,000 a year
MANITOBA				
75% of earnings. Minimum \$150 a month or earnings, if less	Amount Board considers sufficient to compensate for physical loss, not exceeding 75% of earnings <sup>3, 4</sup> . Board may pay additional compensation under certain conditions	75% of earnings for duration of disability. Minimum \$35 a week or earnings, if less	75% of difference in earnings before and after accident or compensation based on impaired earning capacity estimated from the nature of the injury for duration of disability <sup>2</sup>	\$6,600 a year
SASKATCHEWAN				
75% of earnings. Minimum \$36 a week	Proportion of 75% of earnings based on impaired earning capacity estimated from nature and degree of injury <sup>1, 2, 3</sup>	75% of earnings for duration of disability. Minimum \$36 a week or earnings, if less	75% of difference in earnings before and after accident for duration of disability <sup>3</sup>	\$126.92 4/13 a week (\$6,600 a year)
ALBERTA				
75% of earnings. Minimum \$175 a month	Proportion of 75% of earnings based on impaired earning capacity estimated from nature and degree of injury <sup>2</sup>	75% of earnings for duration of disability. Minimum \$40 a week or earnings, if less	Proportion of 75% of earnings based on impaired earning capacity estimated from nature and degree of injury for duration of disability	\$6,600 a year
BRITISH COLUMBIA				
75% of earnings. Minimum \$165.61 a month <sup>5</sup>	Proportion of 75% of earnings based on impaired earning capacity estimated from nature and degree of injury <sup>1, 2, 3</sup>	75% of earnings for duration of disability. Minimum \$35.85 a week or earnings, if less <sup>6</sup>	Proportion of 75% of earnings based on impaired earning capacity estimated from nature and degree of injury, or, if more equitable, 75% of difference in earnings before and after accident for duration of disability <sup>2, 3</sup>	\$7,600 a year <sup>6</sup>

<sup>1</sup> The Act also permits the use of the wage-loss method in calculating compensation. Under this method, compensation is 75% of the difference in the average earnings of the workman before and after the accident.

<sup>2</sup> If earning capacity is diminished 10% or less (5% or less in Alberta), a lump sum may be given.

<sup>3</sup> The minimum payable in case of partial disability is the same proportion of the minimum for total disability (see preceding column) as impairment is of full earning capacity.

<sup>4</sup> Board may fix compensation on basis of \$15 a week, even though earnings are less than that amount.

<sup>5</sup> Minimum compensation is increased annually by 2% for each rise of 2% in the Consumer Price Index. From January 1, 1971, minima raised to \$168.92 (permanent total disability) and \$36.57 (temporary total disability).

<sup>6</sup> As increased by \$1,000 on January 1, 1971, in line with a formula in the Act.



## **LABOUR STANDARDS IN THE YUKON AND NORTHWEST TERRITORIES**

Labour standards legislation has been enacted by the Territorial Councils of the Yukon and Northwest Territories in most of the fields of legislation covered by this publication. New Labour Standards Ordinances, modelled on the Canada Labour (Standards) Code, with modifications to meet the particular requirements of the Territories, went into force on July 1, 1968. The Ordinances establish minimum standards of hours of work, wages, annual vacations and public holidays for employees in the Territories. Previous to the enactment of the Northwest Territories Ordinance, the only labour standards applicable were those established by mines legislation. Standards in the Yukon Ordinance replaced those previously laid down in the Yukon Labour (Minimum Wages) Ordinance, the Labour Provisions Ordinance and the Annual Vacations Ordinance.

The Commissioner of each Territory is to administer the Ordinance, with the advice and assistance of an Advisory Board, consisting of a chairman, an employers' representative and an employees' representative. Provision was made for the appointment of a Labour Standards Officer to administer the Ordinance, under the Commissioner's direction, and for the appointment of inspectors.

The Ordinances apply to employers and employees in any work, undertaking or business of a local or private nature in the Territory. The Northwest Territories Ordinance excludes domestic servants in private homes, trappers, persons engaged in commercial fisheries, and managers or superintendents or persons who exercise management functions. Members or students of designated professions may be excluded by regulations. The Yukon Ordinance applies generally but certain classes of employees are excluded from Part I governing hours of work.

### **Statutory School-Leaving Age**

In both Territories, a School Ordinance provides for compulsory school attendance to the age of 15. In the Northwest Territories, if a child reaches his 15th birthday after December 31, he must attend to the end of the school year. As in the provinces, a child may be exempted from school attendance if he is under instruction in some other satisfactory manner, if he is prevented from attending school for any unavoidable cause, or if he has reached a standard of education

equal to or higher than that to be attained in the school. In the Northwest Territories, a child may be allowed to leave school before the statutory school-leaving age if he has completed Grade VIII or its equivalent. An exception is also permitted in the Northwest Territories in the case of a child who is unable to attend because of distance from school or lack of school accommodation.

### **Minimum Age for Employment**

Under a Mining Safety Ordinance in each Territory, the minimum age for employment below ground is 18 years and the minimum age for employment above ground, 16 years.

Under the Labour Standards Ordinances of both Territories, regulations may be made laying down conditions under which young persons under the age of 17 years may be employed.

### **Minimum Wages**

Both Ordinances require the payment of a minimum rate of wages of \$1.50 an hour. This rate applies to employees who are 17 years of age and over.

Employees paid on other than a time basis, such as pieceworkers and persons paid a mileage rate, are required to receive the equivalent of the minimum wage.

In the Northwest Territories, Labour Standards Regulations were issued under the Labour Standards Ordinance. Under these Regulations, an employee who is required to report for work must be paid a minimum of 4 hours' pay at his regular rate. The maximum deductions that may be made for board and lodging are 50 cents a meal and 60 cents a day for lodging. An employee's wages must not be reduced below the minimum wage for meals supplied, the furnishing and upkeep of uniforms or for accidental breakages.

### **Hours of Work**

The Mining Safety Ordinances of both Territories provide for a maximum eight-hour day for work below ground in mines.

Under the Labour Standards Ordinance of the Northwest Territories, standard hours of work are 8 in a day and 48 in a week for most employees. Except in special circumstances, maximum hours are 10 in a day and 60 in a week.

Different standards are laid down for certain classes of employees.

Standard hours of 208 in a month have been established for persons employed in exploration and development of metal mining and petroleum (including geophysical, geological, seismological and diamond drilling work), the transport of goods to and from isolated areas, and in tourist camps. For these employees, maximum hours are 260 in a month.

In the Yukon Territory, standard hours are 8 in a day and 48 in a week except for employees in shops, for whom standard hours of 8 in a day and 44 in a week are established. "Shop" is defined as an establishment where wholesale or retail trade is carried on or where services are dispensed to the public for profit. Maximum hours of work permitted are 10 in a day, 60 in a week and 260 in a month. Overtime beyond the limits of 8 and 48 hours is prohibited for employees engaged in mining operations underground in a shaft or tunnel.

In all cases where an employee is required or permitted to work in excess of standard hours, he must be paid one and one-half times his regular rate.

Averaging of hours over a period of two or more weeks is permitted under both Ordinances. The manner and circumstances in which averaging may be allowed are to be prescribed by regulations.

Exceptions from maximum hours are permitted in certain circumstances.

Where work in an industrial establishment is seasonal or intermittent in nature, the Commissioner, after having considered the nature of the establishment, the conditions of employment and the welfare of the employees, may issue an order permitting excess hours to be worked.

In the Northwest Territories, hours in excess of maximum hours (10 and 60 or 260, as the case may be) may be worked with a permit issued by the Labour Standards Officer, when the applicant has satisfied him that there are exceptional circumstances to justify the working of additional hours.

Under both Ordinances, maximum hours may be exceeded in an emergency due to an accident, breakdown in machinery or other unpreventable circumstances. Details of such emergency work must be reported (in the Yukon, only upon request).

The hours of work provisions of the Yukon Ordinance do not apply to members of the employer's family, individuals who search for minerals, travelling salesmen, domestic servants, farm labourers, and supervisory and managerial employees. Members and students of professions and other persons or classes of persons may be excluded by regulations.

Persons employed as hunting or fishing guides are exempted from the hours of work provisions of the Northwest Territories Ordinance.

### **Weekly Rest-Day**

Both Ordinances provide that, unless an exception is made by regulations, employees must be given at least one full day of rest in each week, and that the normal day of rest must be Sunday wherever practicable.

### **Annual Vacation with Pay**

Under both Ordinances, employers are required to give their employees an annual vacation with pay of at least two weeks in respect of every completed year of employment.

A "year of employment" is defined as continuous employment of an employee by one employer for a period of 12 consecutive months beginning with the date employment began or any subsequent anniversary date.

Vacation pay is 4 per cent of the employee's wages for the year of employment in respect of which he is entitled to a vacation. The vacation must be granted not later than 10 months after the date on which the employee becomes entitled to it. Vacation pay must be given at least one day before the vacation is to begin or at an earlier date, if the regulations so prescribe.

The Yukon Ordinance provides that, if a general holiday occurs during an employee's vacation, the vacation is to be extended by one day in lieu of the holiday, and that the employee must be paid the wages to which he is entitled for the holiday, in addition to his vacation pay. The Northwest Territories Ordinance states that, where a general holiday occurs during an employee's vacation, the vacation is not to be extended, and no additional holiday or wages must be given to the employee.

When employment is terminated during a year, the employee is entitled to any vacation pay owing to him in respect of a previous completed year of employment and to 4 per cent of his wages for the period he has worked during the year. An employee is not entitled to vacation pay, however, unless he has been continuously employed for 30 days or more.

When a business changes hands, an employee is considered to have been in continuous employment before and after the transfer.

The Yukon Ordinance excludes from its annual vacation provisions employees who are members of the employer's family.



## Public Holidays

In both Territories, employees are entitled to a holiday with pay in respect of each of the general holidays listed in the Ordinance. Both Ordinances provide for the same eight general holidays as are named in the federal Code but in the Yukon Ordinance a ninth holiday, Discovery Day, is provided for. Another holiday may be substituted for any of the listed holidays.

The Yukon Ordinance states that, where a general holiday falls on a Sunday, the Monday following is to be a holiday with pay.

The Labour Standards Officer may allow another holiday with pay to be substituted for a general holiday if another holiday is specified in a collective agreement or, where there is no collective agreement, if an employer applies for a substitution and the majority of the employees agree.

In the Northwest Territories, an employee is entitled to a holiday with pay only when a general holiday falls on a regular working day.

In the Northwest Territories, if an employee is required to work on a holiday, he must be paid his regular pay for the day and must, in addition, be paid at his regular rate of wages for the hours worked or he must be given a holiday with pay at a time convenient to him and his employer, not later than his next annual vacation or on termination of employment, whichever occurs first.

The Yukon Ordinance follows the Canada Labour (Standards) Code in requiring, for work done on a holiday, payment of regular pay plus wages at the rate of time and one-half for the hours worked. This provision does not apply to custodial work or essential services as prescribed by regulations. A person employed in any such employment must be granted a holiday with pay at another time in lieu of a holiday on which he was required to work.

An employee who is not required to work on a general holiday must not be required to work on another day of that week that would otherwise be a non-working day, unless he is paid at least double his regular rate of wages in the Northwest Territories, or at least one and one-half times his regular rate of wages in the Yukon, for the time worked by him on that day.

The circumstances under which payment of holiday pay is not required differ in the Ordinances.

In the Yukon, an employee is not entitled to pay in respect of a holiday on which he does not work (a) if the holiday occurs in his first 30 days of employment with an employer, or (b) if he is not entitled to



wages for at least 15 days in the 30 calendar days immediately preceding the holiday, or (c) if he has not worked an average of 24 hours a week during the four-week period immediately preceding the week in which the holiday falls (excluding any period of annual vacation), or (d) if he did not report for work on the holiday after having been called to work, or (e) if, without his employer's consent, he did not report for work on either the day preceding or the day following the holiday.

Under the Northwest Territories Ordinance, an employee is not entitled to be paid for a holiday if he has not worked for his employer for at least 30 days in the preceding 12 months. Other exceptions are the same as in (d) and (e) above.

### **Fair Employment Practices and Equal Pay**

Both Territorial Councils have enacted Fair Practices Ordinances (the Yukon in 1963 and the Northwest Territories in 1966) prohibiting discrimination in regard to employment and membership in trade unions on grounds of race, colour, religion or national origin.

While the intent of the two Ordinances is the same, they employ somewhat different wording in regard to the forbidden bases of discrimination. The Yukon Ordinance prohibits discrimination on grounds of "race, religion, religious creed, colour, ancestry, or ethnic or national origin." In the Northwest Territories Ordinance the wording is "race, creed, colour, nationality, ancestry or place of origin."

Both Ordinances cover a wider field than employment practices. Both prohibit discrimination on the grounds listed above in regard to public accommodation and multiple housing. The Northwest Territories Ordinance also forbids an employer to discriminate between his male and female employees by paying a female employee at a lesser rate of pay than the rate paid to a male employee for the same work done in the same establishment.

The Ordinances are patterned after the provincial fair employment practices laws. They bar an employer from refusing to hire, from discharging or from adversely discriminating in any term or condition of employment on any of the above-mentioned grounds. They prohibit the use of job application forms that require an applicant to give particulars as to his race, colour, religion or national origin.

Trade unions are forbidden to discriminate on any of the same grounds in admitting, suspending or expelling a member.

The prohibitions do not apply to domestic employment, to non-profit charitable, philanthropic, educational, fraternal, religious or social organizations or those operated primarily to foster the welfare of a

religious or racial group, or to employers who employ fewer than five persons.

The Ordinances do not deprive an employer of the right to employ persons of any particular race, colour, religion or national origin in preference to other persons, where such preference is based upon a *bona fide* occupational qualification. The Northwest Territories Ordinance adds the words "necessary to the normal operation of the employer's business or enterprise." Schools in which religious instruction forms or can form part of the curriculum are permitted to hire persons of a particular religion or religious creed.

Procedures for the enforcement of the Fair Practices Ordinances are similar to those in the provincial fair employment practices laws, providing for investigation of complaints of discrimination, the adjustment of cases through discussion and mediation, and for prosecution and penalties as a last resort.

A complaint alleging discrimination is to be made to the officer appointed by the Commissioner of the Territory to deal with such matters. The Commissioner may then appoint an officer to inquire into the complaint. If a settlement is not reached through conciliation, the officer must recommend to the Commissioner the action that in his opinion should be taken with respect to the complaint, and the Commissioner may issue whatever order he thinks necessary to put the recommendations into effect. A person affected by such an order may within ten days appeal to a judge of the Territorial Court, whose decision is final.

## **Workmen's Compensation**

Each Territory has a Workmen's Compensation Ordinance that makes the employer individually liable to pay compensation and requires him to carry accident insurance to cover his liability or make other arrangements acceptable to the Commissioner. Under both Ordinances, the Alberta Workmen's Compensation Board acts as Referee to determine disputed claims.

Both Ordinances were revised in 1966, following the recommendations of a board of inquiry, to provide for a similar scale of benefits.

The scale of benefits payable under each Ordinance has been increased at intervals but increases in benefits to widows and children and other dependants are made applicable only with respect to accidents occurring after the effective date of the amendments. The maximum dependants' allowances now payable under the Ordinances are

set out below. Lower scales of benefits are in effect for dependants in receipt of pensions as a result of earlier accidents.

	Northwest Territories	Yukon
Funeral	\$300	\$300
Transportation of body	\$125 (from January 1, 1971)	\$100
Lump sum to widow	\$300	\$300
Widow's pension	\$110 (from January 1, 1971)	\$100
Child with parent	\$45 to age 16*	\$45 to age 18*
Orphan	\$45 plus additional sum up to \$10 a month to age 21*	\$45 plus additional sum up to \$10 a month to age 18*
Dependants other than widow and child	Sum determined by Referee, but not more than \$75 to one parent or \$100 to both parents	As in Northwest Territories

\*In the Northwest Territories, children's allowances may be paid, for purposes of continuing education, at order of Referee, to the end of the school year in which the child reaches the age of 21; in the Yukon, they may be paid to the end of the school year in which a child reaches the age of 18. In the Northwest Territories, from January 1, 1971, a payment of \$55 a month must be made to a dependent invalid child of any age. The corresponding payment in the Yukon is \$45 a month.

Under both Ordinances, time-loss compensation at the rate of 75 per cent of the workman's average weekly earnings is paid for the duration of temporary disability. A workman who is permanently and totally disabled is entitled to be paid a pension for as long as he lives equal to 75 per cent of his average weekly earnings. Compensation payments for total disability, either permanent or temporary, may not be less than \$40 a week, or the workman's average earnings, if less. For a workman with a permanent partial disability, compensation is a proportion of 75 per cent of his average earnings, depending on impairment of earning capacity as a result of the injury.

In computing average earnings, the maximum amount of annual earnings which may be taken into account is \$6,600 under both Ordinances (in respect of accidents occurring on or after January 1, 1971, in the Northwest Territories and after April 1, 1970, in the Yukon). Lower ceilings are applicable with respect to earlier accidents.

In addition to compensation payments, the injured workman is entitled to medical aid, the cost of which is borne by the employer. The Referee may require the employer or insurer to pay the expenses of occupational retraining of a permanently disabled workman, up to an amount not exceeding \$5,000.









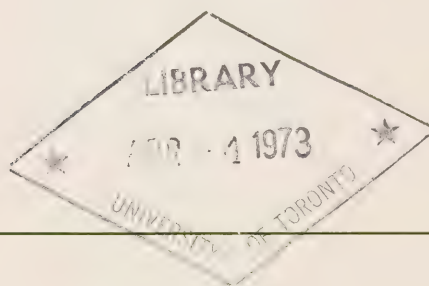




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# LABOUR STANDARDS IN CANADA

DECEMBER 1971



CANADA DEPARTMENT OF LABOUR

Legislative Research Branch

Hon. Martin O'Connell / Minister

Bernard Wilson / Deputy Minister





LABOUR STANDARDS  
IN CANADA

DECEMBER 1971

LEGISLATIVE RESEARCH BRANCH  
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Information Canada  
Ottawa, 1972

## FOREWORD

This publication sets out the standards that are in effect under federal and provincial labour laws with respect to child labour, minimum wages, equal pay for equal work, hours of work, weekly rest-day, annual vacations with pay, general holidays, termination of employment, and maternity protection. The standards set by labour Ordinances of the Yukon and Northwest Territories are included.

"Standards" as used in the title means the minimum standards required by law. These standards are set out in narrative form and in tables, where appropriate.

The chapters on workmen's compensation and fair employment practices have been omitted from the 1971 edition since the subject matter is not in the labour standards area. A publication entitled Workmen's Compensation in Canada is available from Information Canada; information on changes in the legislation is published yearly and is available free on request from the Department. A detailed study of fair employment practices legislation is being prepared by the Branch.

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December 31, 1971.



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## DIVISION OF LEGISLATIVE POWERS

Since both the Parliament of Canada and the provincial legislatures have power to enact labour laws and each is sovereign in its own jurisdiction, it is important for the user of this publication to be clear about the field of authority of each.

In the division of legislative powers between Parliament and the legislatures of the provinces in matters of labour legislation, the provincial legislatures have the major jurisdiction and Parliament has authority only in a limited field.

The right to make laws concerning labour in Canada stems from Sections 91 and 92 of the British North America Act and from court interpretations of these sections.

Provincial authority flows principally from the fact that Section 92 of the B.N.A. Act gives the provinces exclusive power to make laws regarding "property and civil rights in the province." The right to contract is a civil right, and labour laws, which impose conditions on the rights of the employer and employee to enter into a contract of employment (e.g., a minimum age for employment, a minimum rate of wages, limits on working hours), are laws in relation to civil rights. The provinces also have exclusive legislative jurisdiction over "local works and undertakings."

The power of Parliament to legislate in labour matters is derived from and is an incidental part of its exclusive legislative authority over certain classes of subjects assigned to it in the B.N.A. Act. These are enumerated in Section 91 or are expressly excepted from provincial jurisdiction by Section 92(10) and brought within the exclusive jurisdiction of Parliament by Section 91(29).

The specific industries and undertakings which Parliament has exclusive power to regulate and control are those of a national, inter-provincial or international nature. Parliament has authority to regulate, e.g., the operation of railways, telegraphs, canals and other works and undertakings *connecting the provinces or extending beyond the limits of a province*. It has the further authority to regulate undertakings or businesses which are wholly within a province but which have been declared by Parliament to be for the "general advantage" of Canada or for the advantage of two or more of the provinces. Grain elevators, feed mills, uranium mines and defined operations of specific companies are some of the undertakings that have been declared to be for the general advantage of Canada.

Parliament may legislate for certain classes of employers and employees, therefore, because of the nature of the operations in which they are engaged. By virtue of its exclusive power to regulate the management and operation of particular works, undertakings or businesses, it has authority to enact legislation setting minimum standards and conditions of employment for workers engaged in such works, undertakings or businesses.

The industries or undertakings to which the Canada Labour Code, applies are as follows:

1. Operations that connect a province with another province or another country, such as railways, bus operations, trucking, pipelines, ferries, tunnels, bridges, canals and telegraph, telephone and cable systems
2. All extra-provincial shipping and services connected with such shipping, e.g., longshoring and stevedoring
3. Air transport, aircraft and aerodromes
4. Radio and television broadcasting
5. Banks
6. Primary fishing, where fishermen work for wages
7. Flour, feed, and seed cleaning mills and feed warehouses
8. Grain elevators
9. Uranium mining and processing
10. Defined operations of specific companies that have been declared to be for the "general advantage" of Canada or for the advantage of two or more provinces
11. Most federal Crown corporations, e.g., the Canadian Broadcasting Corporation and the St. Lawrence Seaway Authority.

To sum up, Parliament's jurisdiction is limited to employment in or connected with the industries set out above. *The remaining field of employment, including manufacturing, mining, construction, logging, wholesale and retail trade, the service industries and local business generally, is subject to labour legislation enacted by the provincial legislature.*

Parliament has legislative authority with respect to those parts of Canada that are not included within a province. In two federal laws, the Yukon Act and the Northwest Territories Act, it has made provision for local government of each Territory by a Commissioner and a Territorial Council. The Commissioner and Council have legislative powers, subject to any other Act of the Parliament of Canada, with respect to a number

of matters, including property and civil rights in the Territory, and generally in relation to all matters of a merely local or private nature in the Territory. The jurisdiction of the Territorial Councils in labour matters is thus the same as that of the provincial legislatures, with the fundamental difference that the jurisdiction has been conferred by an Act of Parliament. Federal labour standards laws do not apply to undertakings of a local or private nature in the Territories.

## STATUTORY SCHOOL-LEAVING AGE

In all provinces there is a school attendance law which makes it compulsory for children between specified ages to attend school. Exceptions are permitted where a child is unable to attend because of illness or other unavoidable cause and, in most provinces, because of distance from school (where no conveyance is provided) or lack of school accommodation. Some Acts stipulate that a child may be excused from attendance before reaching the statutory school-leaving age if he has already attained a specified standing. An exception may also be granted in special cases, if it appears to be in the interest of the child that he should be excused from school attendance or where the child is certified to be under efficient instruction elsewhere.

In Manitoba, a child over 15 may be permitted to leave school on production of a certificate signed by his parent or guardian, the school attendance officer and the superintendent of schools or, if there is no superintendent, by the school inspector.

In six provinces, a child may be exempted from school attendance for a temporary period on the application of his parent or guardian, if his services are required for necessary farm or home duties or for employment. The New Brunswick Schools Act states that the Minister of Education may issue a certificate relieving a child from school attendance for a maximum period of six weeks in each school term, on the written application of the child's parent, if he agrees with the reasons for such application. No such exemptions are provided for in Alberta, British Columbia and Ontario.

The employment of children of school age during school hours is forbidden unless a child is excused for any of the reasons provided in the Act. The school-leaving age in each province and the provisions for exemption for employment are shown in the table below.

## 1. Statutory School-leaving Ages and Work Exemptions

Province	School-leaving Age	Work Exemptions
Alberta	16	
British Columbia	15-unless has completed course at nearest public school and transport to higher school not provided	
Manitoba	16-must attend to end of school term	Over 12, for not more than 4 weeks in a school year if services needed in husbandry or home duties  Over 15, with certificate signed by parent, attendance officer and superintendent of schools
New Brunswick	15-unless has passed Grade 12	For not more than 6 weeks in each school term if Minister agrees with reasons for parents' application
Newfoundland	15-must attend to end of school year	For period stated in certificate if services needed for maintenance of self or others, for not more than 2 months in a school year except with approval of Minister
Nova Scotia	16	If 12, for not more than 6 weeks in a school year if services needed for home duties or other necessary employment  If 13, with employment certificate if services needed for maintenance of self or others; medical certificate may be required
Ontario	16-unless has completed secondary school or equivalent. Must attend to end of school year	
Prince Edward Island*	15-unless has completed courses in public school. Attendance required 75% of term except in Charlottetown and towns where 90% attendance is required.	For poverty. If 12, for not more than 6 weeks in a school year if services needed in husbandry or other necessary employment.

\*Upon proclamation of relevant section of Prince Edward Island School Act, the school age will be 15, unless the child has completed Grade 12 or the Minister certifies that the child should be exempt from school attendance.



Province	School-leaving Age	Work Exemptions
Québec	15-must attend to end of school year	For not more than 6 weeks in a school year if services needed in farming, home duties or maintenance of self or relatives.
Saskatchewan	16-unless has passed Grade 8	If services needed for maintenance of self or others

## MINIMUM AGE FOR EMPLOYMENT

The Canada Labour Code and regulations do not set an absolute minimum age for employment, but lay down conditions under which young persons under 17 years may be employed in federal undertakings. A young person under 17 may be employed in a federal industry only if (1) he is not required to be in attendance at school under the laws of his province; (2) the work in which he is to be employed is not likely to injure his health or endanger his safety; and (3) he is not employed underground in a mine or in work prohibited for young workers under the Explosives Regulations, the Atomic Energy Control Regulations or the Canada Shipping Act.

Employment of young workers under 17 is subject to two further conditions: (4) that an employee under 17 is not required or permitted to work between 11 p.m. and 6 a.m.; and (5) that he is paid not less than \$1.50 an hour, unless he is undergoing on-the-job training under an approved training plan.

The Canada Shipping Act fixes a minimum age of 15 for employment at sea.

In the provincial jurisdictions, a minimum age for employment is set by mines Acts and a variety of other provincial legislation (child labour laws, the Alberta Labour Act, the Manitoba Employment Standards Act, factory or industrial safety laws and minimum wage orders). No minimum age has been established for employment in agriculture.

Four provinces—British Columbia, Nova Scotia, Prince Edward Island and Newfoundland—have a child labour law prohibiting employment below a specified age. The Newfoundland Employment of Children Act, 1968, is to go into force on proclamation.

The British Columbia Control of Employment of Children Act forbids employment of a child under 15 in specified industries or occupations, unless a permit is obtained from the Minister of Labour. The Act applies to manufacturing, shipbuilding, electrical works, logging, construction, catering, public places of amusement, the mercantile industry, shoeshine stands, automobile service stations, road transport and the laundry, cleaning and dyeing industry.

Under the Nova Scotia Employment of Children Act, employment of a child under 14 is forbidden in manufacturing, shipbuilding, electrical works, the forest industry, garages and service stations, hotels, restaurants and the operation of elevators, theatres, dance halls, shooting galleries, bowling alleys and billiard and pool rooms. The Act does not apply to family undertakings. A child under 14 may not work more than three hours on a school day unless he has an employment certificate issued under the Education Act. Time worked in a day or time worked plus school hours on a school day may not exceed eight hours. Work is forbidden between 10 p.m. and 6 a.m. The Nova Scotia Construction Safety Act sets a minimum age of 16 years for employment in construction.

The Prince Edward Island law (the Minimum Age of Employment Act) sets a minimum age of 15 years for employment in mining, manufacturing, shipbuilding, electrical works, construction and transport by road, rail or inland waterway.

The Newfoundland Act prohibits the employment of children under the age 16, except in family undertakings. There is provision in the Act, however, for the making of regulations by the Lieutenant Governor in Council permitting the employment of children under 16 in any specified occupation, subject to such conditions as may be prescribed.

The Act lays down the conditions under which a child under 16 may be employed by his parent or guardian in a family undertaking. He may not be employed to do any work that is or may be harmful to his health or normal development or that may prejudice his attendance at school or his capacity to benefit from school instruction. He may not work more than eight hours in a day or more than three hours on a school day. Time spent at school and at work may not total more than eight hours. Work between the hours of 9 p.m. and 8 a.m. is prohibited.

Two other provinces — Alberta and Manitoba — have fixed a minimum age for most employment in their labour codes.

In Alberta, a person under 15 may not be employed in any employment except with the written consent of the parent or guardian and the approval of the administrative board. As the school-leaving age is 16 and no exemptions are allowed for employment, children under 16 may work only when school is not in session.

In Manitoba, a child under 16 may not be employed in a factory. For any other employment, the minimum age is 16, unless a written permit is obtained from the Minister of Labour.

In the other provinces, a minimum age for a wide field of employment is established in factory or industrial safety laws and, in Saskatchewan, a minimum wage order.

In New Brunswick, no child under 16 may be employed in any place of employment except a private home, unless he has written authorization from the Minister of Labour.

In Ontario, the minimum age for employment in a factory is 15 years. A child of 14 may be employed in a shop, office or office building, restaurant, bowling alley, pool room or billiard parlour if the work is not likely to endanger his safety. The Child Welfare Act provides that girls under 16 and boys under 12 must not engage in or be licenced or permitted to engage in any street-trade or occupation. Boys between 12 and 16 must not engage in such trade between 9 p.m. and 6 a.m.

The Ontario Construction Safety Act fixes a minimum age of 16 years but permits the employment of 15-year-olds in such parts of a construction project as many be designated by the regulations. No provision has been made in the regulations to date for the employment of 15-year-olds. A minimum age of 16 has been established for the logging industry.

As the school-leaving age in Ontario is 16 years and no exemptions are now permitted for employment, the above-mentioned minimum ages which are below the age of 16 apply only to such time as school is not in session. No child under 16 may be employed in any employment during school hours.

In Québec, the minimum age for employment in an industrial or commercial establishment is 16 years. The same minimum age applies to employment in hotels, restaurants, theatres and other places of amusement and to the employment by a department store or telegraph company of boys or girls as messengers. Children of 15 years of age may be employed in any of these workplaces during school vacations but only with a permit from the inspector.

Boys and girls under 16 are forbidden to sell papers or carry on any street trade unless they can read and write fluently, and such work may not be carried on after 8 p.m.

In Saskatchewan, no person under 16 may work in a factory (which term includes dry cleaning establishments and laundries, garages and service stations, and coal, potash and sodium sulphate mines) or in a hotel, restaurant, educational institution, hospital or nursing home. Regulations may be made prohibiting the employment of young persons under 18 in factories where the work is deemed dangerous or unwholesome. Unless a permit is obtained from an inspector, the hours of work for young persons under 18 are limited to 48 in a week and night work is forbidden.

Mines Acts in all provinces but Prince Edward Island (which has no mining operations) fix the minimum age for employment in mines. The minimum age for employment in mines, factories, shops, hotels and restaurants is set out in the table below. In most provinces, as indicated above, the legislation (apart from mines Acts) covers certain other classes of establishments as well as those set out in the table.

## 2. Minimum Age for Employment

Province	Establishment			
	Mines	Factories	Shops	Hotels Restaurants
Alberta	17	15 except with permit <sup>1</sup>	15 except with permit <sup>1,2</sup>	15 except with permit <sup>1</sup>
British Columbia	18 below <sup>3</sup>	15 except with permit	15 except with permit	15 except with permit
Manitoba	16 above 18 below	16	16 except with permit	16 except with permit
New Brunswick	Coal: 16 Metal: 16 above 18 below	16 except with permit	16 except with permit	16 except with permit
Newfoundland	16 above ground <sup>4</sup> 18 below	16 <sup>4</sup>	16 <sup>4</sup>	16 <sup>4</sup>
Nova Scotia	Coal: 18 below Metal: 16 above 18 below	14 <sup>5</sup>	—	14 <sup>5</sup>
Ontario	16 above 18 below	15 <sup>1</sup>	14 <sup>1,6</sup>	14 <sup>1,6</sup> (restaurants only)
Prince Edward Island	—	15	—	—
Québec	16 above 18 below	16 <sup>7,8</sup>	16 <sup>7</sup>	16 <sup>7</sup>
Saskatchewan	Coal: 16 Metal: 16 above 18 below	16	—	16

<sup>1</sup> A child under 16 may not be employed during school hours.

<sup>2</sup> Minimum age of 12 years in certain occupations, including work as clerk, delivery boy or delivery girl in retail store, with written consent of parent and subject to restrictions on hours (2 hours on a school day, 8 hours on any other day) if not injurious to life, limbs, health, education or morals.

<sup>3</sup> A boy who has reached the age of 17 may be employed underground for the purpose of training.

<sup>4</sup> Except in family undertakings. Act not yet proclaimed in force.

<sup>5</sup> 16 during school hours in cities and towns except with employment certificate.

<sup>6</sup> A child of 14 may be employed if the work is not likely to endanger his safety.

<sup>7</sup> The Government may exempt establishments from the Act.

<sup>8</sup> For certain dangerous occupations, the minimum age is 18 for boys; for others, it is 16 for boys and 18 for girls.



### 3. General Minimum Wage Rates for Experienced Adult Workers (as of January 1, 1972)

Jurisdiction	Rate per Hour
Federal	Employees 17 and over: \$1.75
Alberta	Employees 18 and over: \$1.55
British Columbia	\$1.50
Manitoba	Employees 18 and over: \$1.65
New Brunswick	Employees 18 and over: \$1.25 (\$1.40 from March 1, 1972; \$1.50 from January 1, 1973) <sup>1</sup>
Newfoundland	Employees over 18: \$1.25, men \$1, women (Rate applicable to both sexes, of \$1.25 on April 1, 1972; increasing to \$1.40 on June 1, 1972)
Nova Scotia	Employees 18 and over: men: \$1.35, Zone I \$1.25, Zone II  women: \$1.20, Zone I \$1.10, Zone II (Province wide rate, applicable to both sexes, of \$1.55 on July 1, 1972; increasing to \$1.65 on July 1, 1973)
Ontario	\$1.65
Prince Edward Island	\$1.25, men over 18 95 ¢, women (\$1.10 from July 1, 1972, women)
Québec	Employees 18 and over: \$1.50 <sup>2</sup>
Saskatchewan <sup>2</sup>	Employees 17 and over: \$1.50, ten cities \$1.40, rest of province (Province wide rate, applicable to all age groups, of \$1.70 on January 2, 1972; increasing to \$1.75 on July 1, 1972)

<sup>1</sup> New Brunswick—Waitresses, waiters, doormen, bellmen and assistant bell captains, \$1.25 (\$1.35 from March 1, 1972).

<sup>2</sup> Québec—Hotel trade establishments, \$1.30; service establishments, \$1.35

## MINIMUM WAGES

Minimum wage laws are in force in the federal jurisdiction and in all ten Canadian provinces.

The Canada Labour Code (Part III, Division II) sets a minimum rate for employees 17 years of age and over in the federal industries. This rate may be increased from time to time by order of the Governor in Council. The rate for persons under 17 is established by regulation.

Employees who are paid on other than a time basis, such as pieceworkers and persons paid a mileage rate, are required to be paid the equivalent of the minimum wage.

An employer who is providing on-the-job training to increase the skill or proficiency of his employees, in accordance with conditions prescribed by the regulations, may be exempted from paying the minimum wage to such employees during the whole or part of the training period.

The Code provides also for the payment of a wage lower than the minimum rate to handicapped employees under a system of individual permits.

In Alberta, Manitoba, Ontario and Saskatchewan, minimum wage legislation is part of each province's labour code—the Alberta Labour Act, Part II; the Manitoba Employment Standards Act, Part II; the Ontario Employment Standards Act, Part V, the Saskatchewan Labour Standards Act, Part III. The other provinces have individual minimum wage laws. British Columbia has separate minimum wage Acts for men and women; however, the rates set under these Acts apply to both sexes.

The minimum wage legislation in most provinces authorizes a minimum wage board or other labour board to recommend or establish minimum rates of wages. In Ontario, rates are set by the Lieutenant-Governor in Council. Minimum wage rates are imposed by minimum wage orders or, in Manitoba and Ontario, by general regulations made under each province's Employment Standards Act.

Except in two provinces, the Acts do not specify how the minimum wage is to be determined. In Manitoba, the board is directed to take into consideration and be guided by "the cost to an employee of purchasing the necessities of life and health." The Québec Minimum Wage Commission is directed to consider "competition from outside countries or from the other provinces and the economic conditions peculiar to the various regions of the province."

The practice of boards is to fix a general basic wage, taking into account the cost of living, economic conditions and other relevant factors. The minimum wage rate is set mainly for the protection of the unorganized and unskilled worker. It constitutes a floor above which trade unions may negotiate with management for a higher standard. The boards hold public hearings and make extensive inquiries before minimum wage orders are put into effect. Minimum wage orders are reviewed fairly frequently.

The boards that fix minimum wages are composed of members who represent the interests of employers and employees and in some cases the general public, with an impartial chairman, frequently an officer of the Department of Labour. In British Columbia at least one member of the board must be a woman, and in Nova Scotia and Saskatchewan there must be two women on the board. There is also a woman on the Alberta board, although this is not required by statute. There are two women on the Manitoba board, representing employers and employees, respectively.

In most provinces, minimum wage orders now cover practically all employment. Domestic service in private homes is excluded in all provinces. Farm labour is also excluded in all provinces except Newfoundland. In Ontario, this exclusion is limited to farming proper, certain farm-related occupations such as landscape gardening, nursery operations and veterinary services being covered. In Saskatchewan, minimum wage rates apply to egg hatcheries, greenhouses, nurseries and brush clearing operations, and in Alberta and Prince Edward Island to farm workers employed in commercial undertakings.

A few other classes of workers are excluded in most jurisdictions. Typical exclusions are supervisory and managerial employees, certain categories of employed students, registered apprentices, certain categories of salesmen, and members and students of professions.

Minimum rates apply throughout a province, except in Nova Scotia and Saskatchewan, which are divided into two zones for minimum wage setting purposes. Zone differences in Saskatchewan will be abolished on January 2, 1972 and in Nova Scotia on July 1, 1972. The zone system in Québec was abolished on May 1, 1971, except for the woodworking and shoe industries and public works.

In Nova Scotia, Zone I consists of Halifax-Dartmouth, Sydney and New Glasgow and surrounding areas (ten-mile radius) and Truro, Amherst, Yarmouth, Antigonish and Port Hawkesbury and surrounding areas (five-mile radius); Zone II takes in the rest of the province.

In Saskatchewan, rates are set for the ten cities and a five-mile radius of each and the rest of the province. The ten cities are Estevan, Melville, Moose Jaw, North Battleford, Prince Albert, Regina, Saskatoon, Swift Current, Weyburn and Yorkton.

Minimum wage orders apply to both men and women, and in seven provinces they set the same rate for both sexes. In Newfoundland, Nova Scotia and Prince Edward Island, rates are lower for women than for men.

In all provinces general orders are issued setting hourly rates that apply to most workers in the province. In seven provinces these general orders are supplemented by special orders, applying to a particular industry, occupation or class of workers and in some cases taking into account a special skill.

British Columbia, which originally had a separate minimum wage order for each industry or occupation, has been consolidating its orders. Twenty-two special orders still remain; the minimum rates set by these orders range from \$1 an hour for such employees as truck drivers to \$2.50 an hour for automotive mechanics, construction industry tradesmen, and machinists, moulders and refrigeration and sheet-metal mechanics.

Québec has eight industry orders, governing hotel trade establishments, service industries, the shoe industry, the woodworking industry, sawmills, forest operations, municipal corporations and school boards and public works not governed by the construction decree. The rates set by some of these special orders (for example, the hotel trade and service industries) are lower than the general rates; the rates in other orders, such as the forestry order, are higher than the general minimum.

The other provinces set only a few special rates. Nova Scotia has established rates for employees in beauty parlors and province-wide rates for logging and forest operations and for road building and heavy construction. Special rates for construction, mining and primary transportation and for logging, forest and sawmill operations have been set in New Brunswick. Province-wide rates for construction, well-drilling, logging and lumbering, and truck drivers in Saskatchewan will be abolished on January 2, 1972. The main special rate in Ontario applies to construction. A weekly rate has been set in Alberta for commercial travellers.

In six provinces the orders provide that inexperienced workers may be employed during a specified period at a rate below the regular minimum. These rates may be applicable generally or to a particular



occupation. In three provinces these rates apply to only one occupation. The learning period varies in length from one to nine months.

Provision is also made in the legislation of almost all jurisdictions for the employment of handicapped workers at rates below the established minimum, usually under a system of individual permits.

In all provinces except British Columbia (and Saskatchewan as of January 2, 1972) the orders set special minimum rates for young workers or for young workers in certain categories, such as newsboys or messengers. Student rates are set in three provinces. In Prince Edward Island, the general minimum wage order for men excludes person under 18.

In addition to setting minimum wage rates, minimum wage legislation usually contains other related provisions intended to protect the worker. The most prevalent of these provisions are described below.

Tipping is dealt with specifically in the Alberta, Newfoundland, New Brunswick, Nova Scotia, Ontario, Prince Edward Island and Québec legislation (and also in the federal labour code.) These provisions make it clear that gratuities are not to be counted as part of wages. Québec orders state that tips are the exclusive property of the employee, and the employer is not allowed to deduct them or to consider them as part of the wages paid, even with the employee's consent. Boards in other provinces take the position that gratuities are not to be regarded as wages.

There are provisions in the orders of most provinces (and also in the federal labour code) relating the charges or deductions for board and lodging, where furnished by the employer to the employee.

In some jurisdictions (federal, Alberta, Newfoundland, New Brunswick, Nova Scotia, Prince Edward Island and Québec), the orders set limits on the amounts by which such charges may reduce the minimum wage. The Ontario orders fix the maximum amounts at which meals or a room or both may be valued for minimum wage purposes, where board and lodging are provided as part of wages. In the other provinces, the orders set the maximum charges or deductions that may be made.

Maximum charges or deductions are not set in British Columbia orders. If the board finds that services are inadequate or charges are excessive, it may specify the maximum charges that may be made.

Requirements are also laid down in minimum wage orders regarding the provision and maintenance of uniforms, where these are required to be worn.

Most general orders contain a "daily guarantee" or "call-in pay" provision requiring an employee who is called to work to be paid for



a certain number of hours, even if he is not put to work or if he works for a shorter period. This two-, three- or four-hour minimum period, as the case may be, must be paid for at the minimum rate, except in British Columbia, where payment is required at the employee's regular rate of pay.

#### 4. Minimum Rates for Young Workers and Students\* (as of January 1, 1972)

Jurisdiction	Rate per Hour
Federal	Employees under 17: \$1.50
Alberta	Employees under 18: \$1.40 Students employed part-time: 18 and over: \$1 Under 18: 85¢
Manitoba	Employees under 18: \$1.40
New Brunswick	Employees under 18: \$1.25 (\$1.35 from March 1, 1972) <sup>1</sup>
Newfoundland	Employees 16-18: 85¢, males 65¢, females (Rate applicable to both sexes, of 85¢ on April 1, 1972; increasing to \$1.10 on June 1, 1972)
Nova Scotia	Employees 14-18: males: \$1.15, Zone I \$1, Zone II females: \$1, Zone I 85¢, Zone II <sup>2</sup> (Province-wide rate, applicable to both sexes, of \$1.35 on July 1, 1972; increasing to \$1.40 on July 1, 1973)
Ontario	Persons under 18 employed as messengers, delivery boys, newsvendors, pin setters, shoeshine boys, golf caddies, in golf pro shops, or in municipal public libraries: \$1.25  Students employed 28 hours or less in a week or during school holidays: \$1.30 <sup>3</sup>

\*British Columbia has no special rates for young workers or students.

<sup>1</sup> New Brunswick—Does not apply in construction, mining, primary transportation, logging, or forest and sawmill operations.

<sup>2</sup> Nova Scotia—Except with approval of Minimum Wage Board, no more than 25% of employer's total workforce may be underage employees (14-18). In a hotel, restaurant, motel or tourist resort June 15-September 15 up to 60% of employees may be underage employed workers. These rates do not apply in beauty parlors, logging and sawmill operations or road building and heavy construction.

<sup>3</sup> Ontario—Student rates do not apply in the ambulance, construction or taxi industries.

Jurisdiction	Rate per Hour
Prince Edward Island	Students working minimum of 28 hours in a week or full-time during period from May 15 to September 15 or during Christmas and Easter vacations: \$1, males 90¢, females (\$1 from July 1, 1972)
Québec	Employees under 18:  General Ordinance: \$1.40 Hotel trade establishments: \$1.20 Service Establishments: \$1.25 <sup>4</sup>
Saskatchewan	Employees under 17:  \$1.35, ten cities \$1.30, rest of province (To be abolished on January 2, 1972)

<sup>4</sup> Québec—Rates for young workers also set under ordinances governing municipal corporations and school boards, sawmills, and the woodworking industry.

## 5. Minimum Rates and Learning Periods for Inexperienced Workers\*

Jurisdiction	Hourly Rates and Learning Periods
Prince Edward Island	During probationary period of 30 days: \$1.20, men 90¢, women
Ontario	During first month of employment: \$1.55 <sup>1</sup>
Manitoba	Employees 18 and over:  during first 3 months of employment: \$1.50 during second 3 months: \$1.55

\*No provision for lower rates for learners in the federal jurisdiction, British Columbia, New Brunswick, Newfoundland or Saskatchewan. In the remaining provinces learners' rates are set only for special industries: in Alberta, female workers in the garment industry; in Nova Scotia, beauty parlors; and in Québec, the shoe industry. In Nova Scotia, a general rate for inexperienced employees will be introduced on July 1, 1972.

<sup>1</sup> Ontario—Not more than 20% of total number of employees in an establishment may be employed as learners, and only persons who have no previous experience in the work may be paid learners' rates.

## 6. Maximum Charges Permitted for Board and Lodging\*

Jurisdiction	Meals		Lodging		Board and Lodging
	single	per week	per day	per week	per week
Federal	50¢		60¢		
Alberta <sup>1</sup>	45¢	\$8 for 21 meals in 7-day week  \$7 for 18 meals in 6-day week	60¢ for period less than week	\$4 for full 7-day week	
Manitoba	50¢			\$5	
New Brunswick <sup>2</sup>	75¢				\$2.20 per day
Newfoundland	40¢	\$7		\$3	\$10
Nova Scotia <sup>3</sup>	40¢	\$7		\$3	\$10
Ontario	65¢	\$13.50		\$6.50	\$20
Prince Edward Island	40¢	\$7		\$3	\$10
Québec <sup>4</sup>	60¢			\$5	\$17
Saskatchewan <sup>5</sup>	50 ¢ on \$1.50 per day			50¢	

\*No maximum charges set in British Columbia.

<sup>1</sup> Alberta—Employees in National Parks: single meals, 50¢; lodging, 60¢ per day.

<sup>2</sup> New Brunswick—Applies to construction, mining, primary transportation and logging and sawmill operations.

<sup>3</sup> Nova Scotia—Logging and forest operations: board and lodging, \$2 per day; construction: no charges set.

<sup>4</sup> Québec—Sawmill and forest operations: single meal, 60¢; lodging, \$3 per week; board and lodging, \$15 per week. Service establishments: not more than 20% of minimum wage may be deducted for heated lodging and not more than 15% for unheated lodging provided by employer for employee.

<sup>5</sup> Saskatchewan—Applies to hotels and restaurants and employees earning \$50 or less a week in educational institutions, hospitals and nursing homes. Logging and lumbering: board and lodging, \$2.50 per day. Effective January 2, 1972; meals, 60 ¢ a meal or \$1.80 a day; lodging, 60 ¢ a day; in hotels and restaurants, logging and lumbering, and employees earning \$75 or less a week in educational institutions, hospitals and nursing homes.

## EQUAL PAY

The Parliament of Canada and all provinces but Québec have enacted laws which require equal pay for equal work without discrimination on the grounds of sex.

The Québec fair employment practices law forbids discrimination in employment on the basis of sex, thus prohibiting, *inter alia*, discrimination in rates of pay solely on the grounds of sex. Similar prohibitions are contained in Alberta, British Columbia, Manitoba, New Brunswick, Newfoundland and Ontario human rights legislation.

In four jurisdictions equal provisions are contained in the labour code—the Canada Labour Code, Part III, Division II.1; the Alberta Labour Act, Part V; the Ontario Employment Standards Act, Part VI; and the Saskatchewan Labour Standards Act, Part V. In three other provinces equal pay provisions form part of human rights legislation—the British Columbia Human Rights Act and the Newfoundland and Prince Edward Island Human Rights Codes. Manitoba, New Brunswick and Nova Scotia have separate equal pay Acts.

The Newfoundland and New Brunswick legislation forbids an employer to pay a female employee at a rate of pay less than the rate paid to a male employee for *the same work done in the same establishment*.

The Nova Scotia and Prince Edward Island Acts state that an employer may not pay a female employee at a rate of pay less than the rate paid to a male employee for *substantially the same work done in the same establishment*. The British Columbia Act refers to *the same work or substantially the same work done in the same establishment*.

In Saskatchewan, an employer is forbidden to pay a female employee at a rate of pay less than the rate paid to a male employee for *work of comparable character done in the same establishment*.

The Alberta Act forbids an employer to employ a female employee for any work at a rate of pay that is less than the rate of pay at which a male employee is employed by that employer for *similar or substantially similar work*. The work is deemed to be similar or substantially similar if the job, duties or services the employees are called upon to perform are similar or substantially similar. Reduction of an employee's rate of pay in order to comply with the legislation is prohibited.

The federal, Ontario and Manitoba provisions protect persons of either sex against discrimination in the payment of wage rates and lay down criteria for determining whether the work performed is the same.

In the federal jurisdiction the employer is forbidden to establish or maintain differences in wages between male and female employees employed *in the same industrial establishment, who are performing, under the same or similar working conditions, the same or similar work on jobs requiring the same or similar skill, effort and responsibility.*

In Ontario, the employer is prohibited from paying a female employee at a lesser rate of pay than that paid to a male employee, or vice versa, for the *same work performed in the same establishment, the performance of which requires equal skill, effort and responsibility, and which is performed under similar working conditions.*

In both jurisdictions the employer is forbidden to reduce the rate of pay of an employee in order to comply with the equal pay requirement. Further, in Ontario, employee or employer organizations may not cause or attempt to cause an employer to pay wages that contravene the equal pay provisions of the Act.

In Manitoba an employer is forbidden to pay the employees of one sex wages on a scale different from that on which wages are paid to employees of the other sex *in the same establishment, if the work required of, and done by, employees of each sex is identical or substantially identical.* By way of clarification, the Act states that the work of male and female employees is to be deemed identical or substantially identical if the job, duties or services the employees are called upon to perform are identical or substantially identical in kind or quality and substantially identical in amount.

All the Acts make it clear that a difference in rates of pay based on a factor other than sex does not constitute failure to comply with their requirements. In Nova Scotia, however, the employer must establish that such a factor justifies a different rate of pay.

The Manitoba Act lists a number of these factors, stating that a difference in rates of pay of male and female employees based on length of service or seniority, location or geographical area of employment, performance or capacity, or any factor other than sex considered by a referee or court to justify payment of different rates is not considered to be in contravention of the law.

The Ontario Act contains three specific exceptions in addition to the general exception permitting a differential based on any factor other than sex. Differences in rates of pay based on a seniority system, a merit system, or a system that measures earnings by quantity or quality of production do not constitute discrimination within the terms of the Act.



The Manitoba, New Brunswick, Newfoundland, Ontario, Prince Edward Island and Saskatchewan equal pay legislation is applicable to provincial government employees. The federal Act covers employees of Crown corporations but does not apply to other federal public servants. Rates of pay of classified public servants are set by classification, according to the type of work performed, without any distinction based on sex.

The procedure laid down for the enforcement of equal pay provisions may be invoked upon complaint by the aggrieved person in British Columbia, New Brunswick, Newfoundland and Prince Edward Island.

In the federal jurisdiction and Ontario, enforcement no longer depends solely on a formal complaint. The equal pay provisions are enforced through regular inspection by the field staff of the respective departments of labour.

In Alberta, Manitoba and Nova Scotia, investigation may be initiated upon complaint by the aggrieved person or upon the initiative of a director appointed under the Act. In addition, in Manitoba any person may file a complaint on behalf of the aggrieved person, and in Alberta her representative may so do. The Saskatchewan Act no longer specifies the person who may make a complaint.

A complaint is to be registered in Newfoundland, New Brunswick, and Prince Edward Island with the Minister of Labour; and in Alberta, British Columbia, Manitoba, Nova Scotia and Saskatchewan with a designated officer of the Department of Labour (the director). In Manitoba, the employee must make a complaint within 30 days after receiving his or her first wages at an unlawful rate in order to have it dealt with under the Act; no complaint may be made against an employer bound by a collective agreement to which the Labour Relations Act or Part XVIII of the Public Schools Act applies. The British Columbia legislation imposes a six-month time limit for making a complaint.

In all jurisdictions (except Ontario and the federal industries), the legislation provides for an initial informal investigation into a complaint by an officer of the Department of Labour.

In Newfoundland, New Brunswick, Nova Scotia and Saskatchewan, if the person designated to make the inquiry is unable to settle the matter, a board or commission of one or more persons may be appointed. The Saskatchewan Act refers to an *ad hoc* committee; in the Newfoundland Act, the commission is called a Human Rights Commis-

sion. (In Newfoundland, the Minister may, in addition, appoint a commission when he deems it desirable to have an inquiry made into any matter within the purview of the Act.)

In Alberta, the Board of Industrial Relations, which administers the Labour Act, deals with a complaint that is not settled at the initial inquiry. Upon receiving the report of the investigating officer, stating that in his opinion there has not been a violation of the Act or that he has been unable to bring about a settlement, the Board may hold a hearing and determine the merits of the matter. In British Columbia, the director may refer the matter to the Human Rights Commission, a permanent body established under the Act. The Commission may dismiss a complaint at any stage of proceedings if it is of the opinion that it is without merit. Under the Manitoba Act, the second stage of the procedure is the appointment of a referee, who may or may not be an officer of the Department of Labour. In Prince Edward Island, the Minister must inquire into the matter if it is not settled at the earlier stage.

The board, commission, *ad hoc* committee, referee or Minister is given full powers to conduct a formal inquiry. All the Acts provide that the parties to the complaint must be given an opportunity to present evidence and to make representations.

The recommendations of the board, commission, committee or referee, as the case may be, may be put into effect by an order of the Minister of Labour, except under the Alberta and British Columbia Acts. Under the Alberta Act, the Board of Industrial Relations, is empowered to issue a directive. In British Columbia, the Human Rights Commission must issue an order, if it finds there has been a contravention of the Act. In Prince Edward Island, if the Minister finds the complaint to be justified, he must direct the course of action that ought to be taken and may issue an order to put it into effect. Under all the Acts, compliance with the order is required.

In Manitoba, an information may be laid against an employer who fails to comply with an order of the Minister. The hearing is to be a trial *de novo* and the magistrate may order the employer to pay any wages found to be due to the employee.

In Newfoundland, the order of the Minister may be appealed to the Supreme Court. In Alberta and British Columbia, an order of the Board of Industrial Relations and Human Rights Commission, respectively, may be enforced by filing it in the Supreme Court of the province.

The British Columbia Human Rights Commission may direct the person whom it has found to be in contravention of the Act to cease and rectify the contravention. It may also include in its order a direction to pay the wages lost as a result of the contravention. The order of the referee under the federal Act and the Board's order in Alberta may direct the payment of wages owing for a period of up to six months preceding the date of the complaint (or, in Alberta, six months preceding the termination of employment, if earlier).

In Ontario the Director of Employment Standards (who, under the direction of the Minister of Labour, administers the Employment Standards Act) has authority to determine the amount of wages owing to an employee, where in his opinion an employer has contravened the equal pay provisions. The employer must be given a chance to be heard. For purposes of enforcement of the Act, this amount is to be deemed unpaid wages.

Where the Director cannot determine the amount owing, the Minister may, on his recommendation, appoint a board of inquiry. The board is required to hear the parties and to recommend to the Director the course of action that ought to be followed.

Under the wage collection procedure of the Employment Standards Act, the Director is empowered to collect unpaid wages for an employee up to a maximum of \$2,000 and the employer is subject to a penalty of 10 per cent of the amount owing. An employer who has paid the wages and penalty, as required, has the right to apply to the Minister, within 15 days after being notified of the determination, for a review, whereupon a person designated by the Minister is required to hold a hearing, giving the employer full opportunity to make submissions, and to decide the amount owing to the employee. If the employer is dissatisfied with the Minister's decision, he may within 15 days appeal the decision to the Supreme Court, on the ground that it is erroneous in point of law or in excess of jurisdiction.

Provision is made in all the Acts for prosecution in the Courts as a last resort. Failure to comply with the Act or an order is made an offence punishable by a fine. In Newfoundland, Ontario and Saskatchewan, the convicting magistrate must order the payment of wages due, in addition to imposing a fine. Under the federal Act, an employer convicted of an offence under the Act may, in addition to any other penalty, be made liable for payment of wages found to be due.

Each of the Acts except the Acts of British Columbia and New Brunswick makes it an offence for an employer to dismiss or otherwise

discriminate against an employee because he has made a complaint or given evidence under the Act.

A number of the laws provide that a person claiming to be aggrieved by an alleged contravention of the Act has a choice of initiating court proceedings or of making a complaint. Some Acts stipulate that the right of an employee to take any other proceeding for recovery of wages to which he is entitled is not barred by reason of any remedy provided for in the Act. The Alberta Act expressly provides that, instead of making a complaint, an employee may institute civil action against her employer for recovery of wages due under the equal pay provisions, together with costs of the action. Court proceedings must be taken within 12 months from the date on which the cause of action arose. Up to 12 months' wages (preceding the termination of the employee's services or the taking of civil action, whichever occurs first) may be recovered under this alternative.

## **HOURS OF WORK**

### **FEDERAL**

Hours of work of employees in undertaking within federal labour jurisdiction are regulated by the Canada Labour Code, Part III, Division II.

The Code sets a standard workday and workweek and requires payment of an overtime rate for work done beyond the hours specified. It also establishes a maximum workweek, overtime hours being restricted to 8 in a week, except in special circumstances.

Under the Code, standard hours (the number of hours that may be worked at regular rates of pay) are limited to 8 in a day and 40 in a week. Hours in excess of 8 and 40 may be worked, however, provided one and one-half times the regular rate is paid, up to a maximum of 48 hours in a week.

In a week in which an employee is entitled to a holiday with pay (under Part III Division IV of the Code) the overtime rate is to be paid after 32 hours, instead of 40. In calculating overtime for the week, no account is to be taken of any time worked on the holiday.

Because some types of employment may call for a more flexible arrangement of working hours, the Code permits the averaging of hours over a period of two or more weeks. Under a system of averaging, working hours may vary from day to day or from week to week so long as the total standard hours do not exceed 40 multiplied by the number



of weeks in the averaging period. The overtime rate (one and one-half times the regular rate) must be paid at the end of the averaging period for all hours worked in excess of such standard hours. The total number of hours that may be worked by an employee in an averaging period is the product of the number of weeks in the period multiplied by 48.

Averaging is permitted for any class of employees who have no regularly scheduled working hours or who have regular hours but the number of hours scheduled differs from time to time. On notification to the Department of Labour, an employer may select an averaging period of 13 weeks or less.

If an employer requires a longer period for averaging than 13 weeks in order to provide for a period in which fluctuations take place (e.g., where there are seasonal rush and slack periods during the year), he must obtain the approval of the Minister of Labour. The same conditions apply as to a period of 13 weeks or less. The period over which hours may be averaged may be as long as a full year.

An employer who has adopted an averaging plan is required to post clear information about the plan in places where it can readily be seen by the employees affected.

When an employee terminates his employment of his own accord during an averaging period, he is not entitled to overtime pay. If this employment is terminated by the employer, however, he must be paid overtime pay for any hours worked in excess of an average 40-hour week over the period he has worked.

Exceptions from the maximum workweek are permitted in certain circumstances. Work in excess of 48 hours in a week (or the maximum hours established in an averaging period) may be allowed under permit, when the Minister, having given due regard to the conditions of employment and the welfare of the employees, is satisfied that such exceptional conditions exist as to make the working of additional hours necessary.

A permit is issued for a definite period of no longer duration than the time the exceptional circumstances are expected to continue. The permit may specify either the total amount of excess overtime that may be worked in the period or the additional number of hours per day or per week that the employees may work. The number of employees engaged in such excess overtime and the extent of the overtime worked by each must be reported in writing to the Minister within 15 days after the overtime permit expires or within a time fixed in the permit.

Maximum weekly hours may also be exceeded to make up for the time lost due to an accident, breakdown in machinery or other emer-



gency. The employer is required to report such emergency work within a specified time.

In order to deal with the special problems of some industries, regulations may be made, after public inquiry, varying the standard and maximum hours for classes of employees in any specified establishment where the Code provisions would be unduly prejudicial to the interests of the employees or seriously detrimental to the operation of the establishment, or entirely exempting a class of employees from the hours provisions where they cannot reasonably be applied.

Regulations may also be made specifying the circumstances under which the overtime rate will not apply because work practices make it unreasonable or inequitable.

Different hours of work provisions have been established temporarily under the former deferment provisions of the Code for some industries, including long-distance trucking and shipping on the St. Lawrence River and the East Coast and Newfoundland.

## PROVINCIAL

### **General Hours of Work Laws**

Five provinces have Acts of general application regulating working hours (the Alberta Labour Act, Part I; the British Columbia Hours of Work Act; the Manitoba Employment Standards Act, Part III; the Ontario Employment Standards Act, Part III; and the Saskatchewan Labour Standards Act, Part II).

The Acts of Alberta, British Columbia and Ontario set a maximum number of hours per day and per week beyond which an employee must not work. Hours are limited in Alberta and British Columbia to 8 in a day and 44 in a week and in Ontario to 8 in a day and 48 in a week.

All three laws provide for exceptions in certain circumstances. Exceptions are authorized in orders or regulations or through the issuing of a permit. In both Alberta and British Columbia, the administrative board has authority not only to permit working hours to exceed statutory limits but also to fix the minimum wage payable for overtime. In both provinces the board has made special orders for a considerable number of industries, permitting variations from the daily and weekly hours specified in the Act for exempting workers entirely from hours limitations.

In Ontario, the Director of Employment Standards may, by permit, authorize hours of work in an establishment in excess of 8 and 48, subject to specific limits laid down in the Act. The limit for overtime is

12 hours in a week for an engineer, fireman, full-time maintenance man, receiver, shipper, delivery truck driver or his helper, watchman, or any other person who, in the opinion of the Director, is engaged in a similar occupation. For most other employees the limit for excess hours is 100 hours in each year for each employee.

The Director may also issue a permit authorizing working hours in excess of the overtime limits set out above, if he is satisfied that the nature of the work or the perishable nature of the raw material being processed requires the excess hours.

In no case may a girl under the age of 18 work more than 6 hours overtime in a week.

Subject to certain exceptions set out in the regulations, one and one-half times the regular rate must be paid for work done, under permit, beyond 48 hours in a week. The employee's regular rate of pay must not be reduced in complying with this requirement.

Taxi drivers, and ambulance drivers and their helpers are not entitled to overtime pay. In certain industries—highway transport, local cartage, road building, sewer and watermain construction, the hotel, motel, tourist resort, restaurant and tavern industry (seasonal employees) and fruit and vegetable processing (seasonal employees)—extended hours, 50, 55 or 60, as the case may be, may be worked before the overtime rate applies.

The Manitoba and Saskatchewan Acts set standard hours as opposed to maximum hours. They do not limit the hours which may be worked in a day or in a week but require the payment of time and one-half the regular rate after 8 hours in a day and 40 hours in a week in Saskatchewan and 8 hours in a day and 44 hours in a week in Manitoba. To prevent the working of excessively long hours, the Saskatchewan Act empowers the Lieutenant Governor in Council to limit daily hours in any occupation to 12, except in special circumstances or when permission to work longer hours has been obtained from the Minister of Labour.

The Manitoba and Saskatchewan laws also provide for exceptions. The Manitoba law permits working hours to be varied in certain circumstances without payment of the overtime rate. The Manitoba Labour Board must review once a year any orders it makes under this authority. In Saskatchewan, regulations permit hours to be averaged over a specified period, thus allowing some variation from week to week. Certain classes of employees have been entirely exempted from the Act, with the result that these classes have no entitlement to overtime pay.

Under all the Acts, there is provision for working daily hours in excess of 8 in order to establish a 5- or 5½-day week, (and in Saskatchewan a 4-day week) so long as weekly hours are not exceeded. There is also provision, except in Saskatchewan, for hours to be exceeded in emergencies.

The standards set under hours of work laws and the application of each Act in general terms are set out in the following table.

### 7. General Hours of Work Laws

Jurisdiction	Standards Set	Application
Federal	Standard hours: 8, 40 after which 1½ times the regular rate must be paid Maximum hours: 48	Federal industries Exclusions: managers, superintendents and professional employees Exceptions: railways not yet brought under Code; different standards set by regulation for some industries (e.g., long-distance trucking, interprovincial shipping on east coast)
Alberta	Maximum hours: 8, 44	Most employment Exclusions: managerial and confidential employees, farm labour and domestic service Exceptions: different standards set by regulation for some industries (e.g., trucking, taxicab, logging and sawmill, highway construction, geophysical exploration, oil well service, work camps, nursery)
British Columbia	Maximum hours: 8, 44	Industries in Schedule (e.g., manufacturing, mercantile, catering, construction, mining, barbering, elevator operators, hotel clerks, truck drivers, bus operators) Exclusions: managerial and confidential employees Exceptions: different standards set by regulation for some industries (e.g., trucking, logging, fruit and vegetable canning, bus operators)
Ontario	Maximum hours: 8, 48	Most employment Exclusions: supervisory and managerial employees, professional employees, farm workers, domestic servants, construction, commercial fishermen, resident janitors or

Jurisdiction	Standards Set	Application
		caretakers, and a few other classes of employees Exceptions: different standards set by regulation for some industries (e.g., highway transport, local cartage, road building)
Manitoba	Standard hours: 8, 44 after which $1\frac{1}{2}$ times the regular rate must be paid	Most employment Exclusions: professional employees, farming, domestic service, fishing and construction
Saskatchewan	Standard hours: 8, 40 after which $1\frac{1}{2}$ times the regular rate must be paid	Most employment Exclusions: northern area of province, managerial employees, farm workers, domestic servants, certain professions, commercial travellers, logging, road construction, and a few other classes of employees Exceptions: different standards set by regulation for some industries (oil truck drivers, newspaper staff)

### Other Legislation Restricting Hours

Apart from general hours of work laws, other statutes regulate working hours in some industries.

Schedules under industrial standards legislation in seven provinces and decrees under the Québec Collective Agreement Decrees Act and the Construction Industry Labour Relations Act regulate hours in construction and other industries. Schedules and decrees apply to designated zones; a number apply throughout the province.

Generally speaking, standard weekly hours for the construction industry range from 40 to 48, with a 40-hour week being the usual standard in the larger centres. In Québec, a 40-hour week is set for tradesmen, a 45-hour week for labourers and a 50-hour week for road building.

In another industry regulated by schedules and decrees in Ontario and Québec, the garment industry, standard weekly hours are usually  $37\frac{1}{2}$  or 40. In a few branches of the industry in Québec, standard hours have been reduced to 35.

In Manitoba, maximum hours which may be worked at regular rates are set under the Construction Industry Wages Act, which applies to both private and public construction work. At the present time a 40-hour week is in effect for most classifications of construction work in the Greater Winnipeg area, and a 44-hour week in the rest of the province. In the heavy construction industry, the maximum hours of work payable at regular rates are 60 except in Metropolitan Winnipeg during the period from November 1 to April 30, when a 48-hour week is in effect.

Mining legislation in New Brunswick and Nova Scotia, which sets a maximum 8-hour day for underground work in mines, provides the only statutory regulation of hours of work of miners in those provinces; hours of work Acts apply to mining in other provinces.

Working hours of women and young persons are restricted by the New Brunswick Minimum Employment Standards Act and by factory legislation in two other provinces. Under the New Brunswick Minimum Employment Standards Act, which is applicable to any place of employment other than a private home or a farm, hours of women and boys under 18 years are limited to 9 in a day and 48 in a week, unless special permission to work longer hours is obtained from the Minister of Labour. Québec factory law restricts hours of women and boys under 18 to 9 in a day and 50 in a week in factories and to 54 hours in a week in commercial establishments. In Saskatchewan, women and boys under 18 employed in factories are prohibited from working more than 48 hours in a week.

In Newfoundland, the Hours of Work Act limits working hours of shop employees anywhere in the province to 9 in a day and 40 in a week, unless one and one-half times the regular rate is paid.

In all provinces except Manitoba, Ontario and Saskatchewan, there is also some indirect regulation of hours by virtue of provisions in minimum wage orders requiring the payment of an overtime rate after a specified number of hours of work.

A minimum wage order of considerable significance with regard to working hours because of its wide coverage is General Minimum Wage Order 4 in Québec. Order 4 is a blanket order applying to all employees in the province except those covered by decrees, workers governed by special minimum wage orders, farm workers, domestic servants and a few other minor groups. The minimum rates set by Order 4 apply to a standard workweek of 48 hours, after which an overtime rate of one



and one-half times the minimum rate must be paid. After 60 hours in a week, double the minimum rate is mandatory. A few classes of employees are excluded from these overtime provisions.

## 8. Overtime Rates

Jurisdiction	Overtime Rate
Federal	1½ times the regular rate after 8 or 40 hours
Alberta	1½ times the regular rate after 9 or 44 hours
British Columbia	1½ times the regular rate after 8 or 40 hours
Manitoba	1½ times the regular rate after 8 or 44 hours
New Brunswick	1½ times the minimum rate after 48 hours
Newfoundland	1½ times the minimum rate after 48 hours <sup>1</sup>
Nova Scotia	1½ times the minimum rate after 48 hours <sup>2</sup>
Ontario	1½ times the regular rate after 48 hours <sup>3</sup>
Prince Edward Island	1½ times the minimum rate after 48 hours (or normal hours if less, for women) <sup>4</sup>
Québec	1½ times the minimum rate after 48 hours; double the minimum rate after 60 hours <sup>5</sup>
Saskatchewan	1½ times the regular rate after 8 or 40 hours

<sup>1</sup> Newfoundland—Not applicable to farm workers. Shop employees governed by Hours of Work Act, 1½ times the regular rate after 8 or 40 hours.

<sup>2</sup> Nova Scotia—Road building and heavy construction, and employees in transport industry required to be away from home base overnight, 1½ times minimum rate after 96 hours in two weeks.

<sup>3</sup> Ontario—Highway transport, 1½ times regular rate after 60 hours; local cartage 1½ times regular rate after 55 hours; road building 1½ times regular rate after 50 or 55 hours, depending on class of work; watermain construction, 1½ times regular rate after 50 hours; seasonal employees not working more than 16 weeks in a year in fruit and vegetable processing industry and in hotel, motel, tourist resort, restaurant and tavern industry (in latter case, if provided with room and board), 1½ times regular rate after 55 hours.

<sup>4</sup> Prince Edward Island—Seasonal food processing, 1½ times minimum rate after 60 hours; women employed by employers in the industry operating no more than 5 weeks in a year are not entitled to overtime pay; road building, 1½ times minimum rate after 96 hours in two weeks; women in restaurant and tourist resort industries June 15–September 15 are not entitled to overtime pay.

<sup>5</sup> Québec—Employees in fishing or fish processing and employees engaged in fruit and vegetable picking and processing during the harvest season are not entitled to overtime pay; watchmen are entitled only to double the minimum rate after 60 hours. Forest operations, the woodworking industry and employment for municipal corporations and school boards, 1½ times the minimum rate after 48 hours; sawmills, 1½ times the minimum rate after 50 hours; the shoe industry, 1½ times the regular rate after 45 hours.

In British Columbia, in an increasing number of minimum wage orders, payment of time and one-half the regular rate is required after 40 hours in a week. The 40-hour standard workweek is now in effect under the general order and under orders governing such industries and occupations as automotive repair and gasoline service stations, barbering and hairdressing, construction, electronic technicians, stationary steam engineers, logging, sawmills and woodworking, machinists, moulders and refrigeration and sheet metal mechanics, mining, pipeline construction and shipbuilding.

In Saskatchewan, the Minimum Wage Board has no authority to fix overtime rates. All overtime pay requirements are laid down in the Labour Standards Act and orders under it. In Manitoba, overtime pay requirements are contained in Part III of the Employment Standards Act. In Ontario, overtime pay is required under the Employment Standards Act and regulations.

### **Night Work for Women**

In Québec, under the Industrial and Commercial Establishments Act, as amended in 1968, women are permitted to work on the night shift under certain conditions. Previously, women were forbidden to work after midnight.

The Act authorizes the Minister of Labour to grant a permit allowing women 18 and over to work on a third shift in an industrial establishment, if he is satisfied that the nature of production, market conditions and other special circumstances require it. Before ruling on an application for a permit, the Minister must request the opinion of the certified trade union.

Hours of work on the third shift may not exceed 8, and work must not begin before 11 p.m. or after midnight. A lunch break of at least 30 minutes must be allowed around the middle of the shift, and two rest periods of 10 minutes each must be granted in the intervals before and after the refreshment period. Wage rates for the night shift must not be less than those for the two other shifts, and, if premium pay is given for night work, it must be paid to the women employees on the shift.

The employer must ensure the safety of women who leave work before 7 a.m. by providing them with convenient and safe transportation to their homes at his expense.

Regulations made under the Act lay down further conditions. At least one female supervisor, nurse or first aid attendant must be present on the night shift, and there must be at least two women besides the

female supervisor in each workroom or workshop. A permit may not be issued for a period longer than a year. It may be revoked without notice for breach of any of the conditions under which it was issued.

In Ontario, no girl under 18 may work in an establishment between midnight and 6 a.m. If the work period of a female employee of 18 or over begins or ends between midnight and 6 a.m., her employer must provide her with private transportation at his expense from her residence to the place of work or from the workplace to her home.

An order under the Alberta Labour Act prohibits the employment of women on shifts which begin or end between midnight and 6 a.m. unless the employer provides free transportation for the employee to or from her place of residence. Any period during which the employee is required to wait on the employer's premises for transportation to her place of residence is to be deemed working hours.

Manitoba minimum wage regulations contain a similar provision, requiring employers to provide women employees whose work begins or ends between midnight and 6 a.m. with adequate transportation, without cost to the employee, between the place of residence and the place of employment.

In Saskatchewan, women employees in hotels, restaurants, educational institutions, hospitals and nursing homes who are required or permitted to finish work between 12.30 a.m. and 7 a.m. must be provided by the employer with free transportation to their homes. Night work for women is prohibited in factories, except with a permit from an inspector.

## WEEKLY REST-DAY

The Canada Labour Code (Section 31) provides that employees must be given at least one full day of rest in the week, on Sunday wherever possible.

Two exceptions from this general rule are provided for in the regulations. A weekly rest-day does not need to be granted where working hours are averaged over a specified period.

Where working hours in excess of 48 in a week are allowed under a permit from the Minister of Labour, the Minister may specify in the permit that a weekly rest need not be scheduled, as required by the Code, and may prescribe alternative periods of rest.

Nine provinces—Alberta, British Columbia, Manitoba, Newfoundland, New Brunswick, Nova Scotia, Ontario, Québec and Saskatchewan—provide for a weekly rest-day but the provisions vary in scope.

The Alberta Labour Act requires all employed persons except farm workers and domestic servants to be given a day of rest in each consecutive period of seven days, unless the Board of Industrial Relations orders that the hours of rest be allowed in two periods or that a longer period than 24 hours be granted. The Act enables the Board to make special provisions for days of rest in industries which ordinarily operate at least one shift on each day of the week, and permits a consecutive rest period to be granted every four weeks or in relation to some other work period which the Board considers proper. The Board has made special provision for accumulated days of rest in the highway construction, geophysical exploration, land surveying, brush clearing, oil well service and pipeline construction industries, for employees of rural municipalities engaged in road work, and for cooks, night watchmen, etc., in lumber camps.

The general order under the British Columbia Minimum Wage Acts provides for a rest period of 32 consecutive hours weekly. This order applies to most employees not covered by special orders. The orders governing the logging, sawmill, woodworking and Christmas tree industries, shipbuilding, first aid attendants, patrolmen employed by private agencies, taxicab drivers, resident caretakers and funeral parlours in Vancouver, Victoria and environs also require a 32-hour rest period to be granted. Different arrangements may be made on application of the employer and employees concerned, if the Board of Industrial Relations approves.

In Manitoba, the Employment Standards Act provides that a weekly day of rest, if possible Sunday, must be granted to most employees. Exempted are farm workers, watchmen, janitors and firemen living in the building in which they are employed; managers and supervisory employees; repair workers in emergencies; and persons employed for not more than three hours on a weekly rest-day merely for the purpose of looking after horses as part of their usual duty. The Minister of Labour is given discretion to exempt a particular undertaking from the application of weekly rest provisions for a fixed period or indefinitely. Where a plant is exempted, each employee must be given an additional holiday without pay for each weekly day of rest to which he would have been entitled except for the permit of exemption, and the holidays may be accumulated.

Under the Newfoundland Weekly Day of Rest Act, an employer is required to grant his employees a weekly rest period of at least 24 consecutive hours, wherever possible on Sunday. The requirement does not apply to employees engaged in emergency work, or to persons



employed solely in senior managerial capacities, as defined by regulation. The latter group has been defined to include managers, superintendents, supervisory personnel who themselves are not supervised, and members of specified professions.

Any employer or class of employers may be exempted by regulations, subject to such conditions as may be prescribed. Currently excluded are employers operating in remote areas whose employees live in bunkhouses or other temporary accommodation and have given the employer written notice that they do not wish a rest period; employees engaged in catching, handling and processing herring; and certain other narrowly defined groups in the fishing, pulp and paper and mining industries.

The Minister of Labour may grant a permit exempting an employer from compliance with the Act for a period not exceeding 30 days in case of accident, urgent and necessary work to be done to premises or equipment, abnormal pressure of work, or danger of loss of perishables. The Minister may cancel or renew a permit and there is no restriction on the number of permits or renewals that may be granted to an employer. Where a permit is issued, an employee accumulates a period of holidays equivalent to the missed rest periods, with or without pay, in conformity with the pay provisions applicable to the missed rest periods. The employer must allow the accumulated holidays to be taken within 30 days of the expiry or the renewal of a permit.

The Newfoundland Hours of Work Act, which applies to shops throughout the province, requires shop assistants to be given a day off each week in addition to Sunday, except in the weeks in which eight specified holidays occur. In the weeks in which five other specified holidays occur, they must be given a day off in addition to Sunday and the holiday.

The New Brunswick Minimum Employment Standards Act requires employers to give their employees a weekly rest of at least 24 consecutive hours, to be taken if possible on Sunday. Where a weekly rest is impracticable, the Minister of Labour may permit rest periods to accumulate and to be taken later, either part at a time or all together. The only employees not covered are farm workers, domestic servants, employees required to cope with an emergency and part-time workers who are not usually employed more than five hours in a day. Certain groups of employees may be designated by the Lieutenant Governor in Council as being outside the scope of the Act.

In Nova Scotia, every employer in mining, manufacturing and construction is required to grant his employees a weekly rest of at least



24 hours. Wherever possible, the period of rest must be on Sunday and must be granted simultaneously to the whole of the staff of each undertaking.

In Ontario, in cities of 10,000 or more people, workers in hotels and restaurants must be allowed a weekly rest-day, Sunday if possible. Watchmen, janitors, foremen, and those employed for five hours or less in a day are exempted.

In Québec, Minimum Wage Order 4, applying generally to all industries within the scope of the Act not covered by special orders, provides for a weekly rest of at least 24 consecutive hours for the employees covered by its provisions. Farm workers, domestic servants and employees covered by decrees under the Collective Agreement Decrees Act are the only workers not within the scope of the Minimum Wage Act. The seven special minimum wage orders also provide for a weekly rest of 24 consecutive hours. Under the Québec Weekly Day of Rest Act, persons employed in hotels, restaurants or clubs in places of at least 3,000 population must have 24 consecutive hours of rest in a week. In the Québec district, the inspector may permit two periods of 18 hours each instead of one 24-hour period. Where there is only one cook, the 24-hour rest may be replaced by two 12-hour periods.

The Saskatchewan Labour Standards Act provides for a weekly rest of at least 24 consecutive hours, wherever possible on Sunday. Exempted are workers employed in farming, ranching or market gardening, domestic servants, firemen, managerial employees, persons employed for family undertakings and employees who are not usually employed in more than five hours in a day. The Minister of Labour may by permit exempt an employer from compliance with the weekly rest requirement for a specific period not exceeding one year. Any class of employers or employees may be excluded by regulations of the Lieutenant Governor in Council, subject to such conditions as may be prescribed.

## **ANNUAL VACATIONS WITH PAY**

The Canada Labour Code, Part III, Division III provides for a vacation with pay of at least two weeks in respect of every year of employment. Vacation pay is 4 per cent of wages for the year in which the employee establishes his claim to a vacation.

A year of employment, under the federal law, must be continuous with one employer, and may be a 12-month period commencing with the day the employee began to work for the employer or any subse-

quent anniversary of that date, or it may be a calendar year or another year approved by the Minister of Labour.

All provinces have annual vacations legislation. The provisions regarding annual vacations with pay are contained in the Alberta Labour Act, Part II and in two orders under it (a general order and a special order for the construction industry); in the Ontario Employment Standards Act, Part VII and regulations; in Québec Minimum Wage Orders 3 and 7;\* and in the Saskatchewan Labour Standards Act, Part I, and regulations. British Columbia provides for annual vacations with pay and public holidays in one statute, the Annual and General Holidays Act. The other five provinces have separate annual vacations laws. Vacation with pay provisions are also contained in most decrees under the Québec Collective Agreement Decrees Act and the Construction Industry Labour Relations Act. Some industrial standards schedules make provision for pay in lieu of annual vacations.

The Canada Labour Code applies to industries within federal jurisdiction and the only employees excluded are those who are managers or superintendents or who exercise management functions, and members of the medical, dental, architectural, engineering and legal professions.

The provincial laws govern employees in employment within the jurisdiction of the province, with the exception of the classes of employees noted below. The Newfoundland Act provides for the exemption of employees or classes of employees by order of the Lieutenant-Governor in Council. No regulations have yet been made.

Farm workers are excluded in all provinces except Newfoundland. In addition, British Columbia excludes persons employed in horticulture, and Manitoba and Saskatchewan, those employed in ranching and market gardening. (In Ontario, workers in certain occupations related to farming are covered, e.g., landscape gardening and veterinary services. Similarly, in Saskatchewan, the Act applies to egg hatcheries, green-houses and nurseries and bush clearing operations, and in Manitoba to landscape gardening and growing flowers, plants, ornamental shrubs and trees.) Domestic servants are exempted in all provinces except Newfoundland, Saskatchewan and Prince Edward Island. Certain categories of employed students are excluded in Ontario and Québec. Also excepted are workers employed in lumbering in Nova Scotia and workers employed in commercial fishing in Nova Scotia and Ontario.

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\*The legislation described in this section is Minimum Wage Order 3. Order 7 governing the shoe industry requires every employer to grant his employees two consecutive weeks of vacation, with vacation pay at 4 per cent of wages, every year. Except for office workers, watchmen and instock employees, the vacation period must be the week including the 13th of July and the following week.

Professional workers are excluded in British Columbia and Ontario. Salesmen paid entirely by commission are excluded in Alberta; special categories of salesmen, such as real estate and insurance agents, are outside the scope of the Alberta and Québec vacation provisions; real estate salesmen are excluded in Ontario. Part-time workers employed 24 hours or less in a week are not covered in New Brunswick or Prince Edward Island; those regularly working less than three hours in a day are excluded in Québec; and those employed for eight hours or less in a week are exempted from the Alberta order.

The large group of workers governed by collective agreement decrees are outside the scope of the Québec vacation order. Workers governed by a collective agreement in British Columbia are exempted from the Act if the Minister of Labour approves the vacation provisions of the agreement.

The length of the vacation period and the vacation pay requirements in the various jurisdictions are shown in Table 9 overleaf.

In Ontario and Saskatchewan, non-continuous prior service may be counted for vacation purposes. In Ontario, if an employee has completed 12 months of non-continuous employment in any period of 36 months after 1966, he is entitled to a vacation. Non-continuous employment includes employment of a person who consistently works all or part of a working day or days in each regular pay period.

In Saskatchewan, the period of five years of employment with the same employer necessary for an employee to qualify for a 3-week vacation may be made up of "accumulated" years, provided that no break in employment exceeds 6 months (182 days).

As indicated in the table, Alberta and Manitoba require the payment of regular pay for the vacation period. Regular pay means the pay the employee would have earned for his normal hours of work during the vacation period and includes the cash value of board and lodging, where provided.

In the other jurisdictions, vacation pay is a percentage of the employee's earnings for the period during which he establishes his right to a vacation. The Acts vary in what is included as earnings.

In Québec, if a worker has not completed a year's service for the same employer, he is entitled to a continuous vacation of one day for each working month. Similarly, in Saskatchewan, regulations provide that, in order to make the vacation entitlement date of his employees uniform, an employer may grant to an employee with less than a year's service a continuous vacation of one day for each month of employment. The Board of Industrial Relations in Alberta may, in making a

vacation pay order, require an employer to give an employee who has not completed a year of employment a vacation in proportion to the time worked.

### 9. Annual Vacation & Vacation Pay

Jurisdiction	Length of Annual Vacation	Vacation Pay
Federal	2 weeks	4% of annual earnings
Newfoundland	2 weeks	4% of annual earnings
Prince Edward Island	1 week	2% of annual earnings
Nova Scotia	2 weeks	4% of annual earnings
New Brunswick	2 weeks	4% of annual earnings
Québec	2 weeks	4% of annual earnings
Ontario	1 week; 2 weeks after 2 years' service	2% of annual earnings in first year; 4% of annual earnings after second year
Manitoba	2 weeks	Regular pay
Saskatchewan	2 weeks: 3 weeks after 5 years' service	1/26 of annual earnings in first four years; 3/52 of annual earnings after fifth year
Alberta	2 weeks	Regular pay
British Columbia	2 weeks	4% of annual earnings

Most of the laws specify the working time constituting a year of employment. In British Columbia and New Brunswick, a year's service consists of not less than 225 working days (in New Brunswick, working days or shifts). In Manitoba, an employee is held to have completed a year's service if he has worked not less than 95 per cent of the regular working hours during a continuous 12 month period. In Alberta, Newfoundland, Nova Scotia and Prince Edward Island, the employee must have worked 90 per cent or more of the working time during the year (of the regular working days in the establishment in Alberta and of regular working hours in Newfoundland, Nova Scotia and Prince Edward Island).



Where an employee has worked less than the prescribed working time for a year's continuous service and continues to work for the same employer, he is entitled to a vacation on a pro rata basis in Alberta, and to accrued vacation pay for the period worked during the year in British Columbia, Manitoba, Newfoundland, New Brunswick, Nova Scotia and Prince Edward Island. The vacation pay is payable in New Brunswick and Prince Edward Island not later than the next regular pay period after the end of the vacation pay year; in Manitoba, on the anniversary date of the workman's employment; in Newfoundland, within a week after the anniversary date; and in the other two provinces, within a month after the anniversary date.

The employer may determine the time when each of his employees may take the annual vacation to which he is entitled, within certain limits laid down by law. The vacation must be given in New Brunswick not later than 4 months after June 30; in Manitoba and Saskatchewan within 10 months, and in the federal jurisdiction, British Columbia, Newfoundland, Nova Scotia, Ontario and Prince Edward Island, not later than 10 months, after the date on which the employee becomes entitled to a vacation; in Québec within 12 months, and in Alberta not later than 12 months, after the date of entitlement.

Nine jurisdictions require an employer to give notice to the employee of when his vacation is to begin. The minimum period of notice required is one week in Newfoundland, New Brunswick, Nova Scotia and Prince Edward Island; two weeks in the federal jurisdiction and Saskatchewan; 15 days in Manitoba; and 16 days in Québec. Under the Canada Labour Code and in Manitoba, Newfoundland and Saskatchewan, another period of notice may be substituted by agreement. In Alberta, the employer must give the employee one week's notice, if agreement cannot be reached regarding the date on which the vacation is to commence.

An employer in a federal undertaking is required to pay his employees their vacation pay during the 14 days before the beginning of the vacation, except in cases where it is the custom of the establishment to pay vacation pay on the regular payday during or immediately following an employee's vacation. Most of the provincial laws require vacation pay to be paid at least one day before the vacation begins. The Québec order simply states that vacation pay is to be paid before the employee's departure on vacation. In Saskatchewan, an employer must pay an employee his pay during the 14 days immediately preceding the beginning of the vacation.



The Canada Labour Code and six of the provincial laws stipulate that an employee's annual vacation is to be extended by one day in lieu of a public holiday that occurs during the vacation. (In Manitoba, Newfoundland and Saskatchewan, a holiday is defined as a day for which he is entitled to be paid wages without being present at work.) The federal and Saskatchewan laws provide further that for the extra day the employee is to be paid the wages to which he is entitled for the holiday.

Under the Canada Labour Code and all the provincial laws, workers are entitled to vacation pay on termination of employment during the working year. In most jurisdictions vacation pay must be paid immediately on termination of employment. In Ontario, vacation pay is payable on termination or within one week; in Nova Scotia, within 10 days; in New Brunswick and Prince Edward Island, by the next regular payday following termination of employment; and in Newfoundland within 2 pay periods or one month of termination, whichever is earlier.

In Alberta, employers in the construction industry must give each employee (except office staff) vacation credits at the end of each regular pay period. The vacation credits (4 per cent of the employee's regular earnings) are to be recorded in the employer's payroll. The employee must be given the amount of money equivalent to his accrued vacation credits on December 31 or on termination of employment. If he is entitled to an annual vacation, he must be paid his vacation pay the day before his vacation commences.

## **GENERAL HOLIDAYS**

The federal jurisdiction and four provinces—Alberta, British Columbia, Manitoba and Saskatchewan—have legislation of broad application dealing with paid general holidays. Nova Scotia and Ontario have regulated pay for work done on general holidays.

### **FEDERAL**

Under the Canada Labour Code, Part III, Division IV, eight general holidays in a year are to be observed as paid holidays—New Year's Day, Good Friday, Victoria Day, Dominion Day, Labour Day, Thanksgiving Day, Remembrance Day and Christmas Day. The Code provides also that, under certain conditions, an alternative holiday may be substituted for any of the eight holidays specified.

Should a holiday occur on a day on which an employee does not normally work, he must be granted a day off with pay in lieu of the holiday, either at a time convenient to him and his employer or by the addition of a day to his annual vacation.

If Christmas, New Year's Day, Dominion Day or Remembrance Day fall on a Saturday or Sunday that is a non-working day for an employee, he must be given a holiday with pay on the working day immediately before or after the general holiday. These provisions regarding alternative days off do not apply, however, to employees covered by a collective agreement that entitles them to at least eight paid holidays a year.

The Code lays down the general principle that an employee in a federal undertaking who does not work on a holiday is entitled to his regular pay for the day. If he is paid by the week or month, his wages must not be reduced by reason of his not working on a holiday. If he is paid on any other basis, he must receive the equivalent of the wages he would have earned at his regular rate for his normal hours of work. The regular rate of wages for an employee whose hours of work vary from day to day or who is paid other than on an hourly or daily basis is the average of his daily earnings, exclusive of overtime, for the days he worked during the four weeks immediately preceding the holiday, *or* an amount calculated by the method established by the collective agreement.

An employee in a federal undertaking who is required to work on a general holiday is entitled to his regular wages for the day and, in addition, to time and one-half his regular rate for all time worked. In effect, he is paid two and one-half times his usual rate.

These holiday provisions do not apply to superintendents, managerial employees or members of designated professions.

Different provisions apply to employees employed in continuous operations who are required to work on a holiday. A "continuous operation" is defined to include any industrial establishment in which in each 7-day period operations normally continue without cessation until the end of the regularly scheduled operations for that period; the operation of trains, planes, ships, trucks and other vehicles; telephone, radio, television, telegraph or other communication or broadcasting services; or any other operation normally carried on without regard to Sundays or holidays. An employee who works on a holiday must be paid his regular wages for the day and must, in addition, be paid time and one-half his regular rate for the time worked, *or* be granted a holiday with pay at some other time, either a day added to his annual vacation

or another day convenient to him and his employer, *or*, where a collective agreement so provides, be paid for the holiday on his next non-working day.

There are some situations in which an employee is not entitled to holiday pay. An employee is not entitled to pay for a general holiday that occurs in his first 30 days of employment with an employer, but if he is required to work on a holiday he must be paid time and one-half his regular rate. If he is employed in a continuous operation, he may be paid at his regular rate for work done on a holiday.

A further exception is that an employee is not entitled to pay for a general holiday on which he does not work if he is not entitled to wages for at least 15 days during the 30 calendar days immediately preceding the holiday. An employee in a continuous operation is not entitled to pay for a general holiday if he did not report for work in response to a call from the employer, or if he "signs off" in accordance with the conditions of employment prevailing in the establishment in which he works and thus makes himself unavailable for work on that day.

Special regulations for longshoremen provide that a longshoreman employed by an employer who is a member of a "multi-employer unit" is entitled to holiday pay if he is entitled to wages for at least 15 days or 120 hours in the 30 calendar days immediately preceding a general holiday. Pay for the holiday may not be less than eight times the employee's basic hourly wage rate.

A longshoreman employed by an employer who is not a member of a "multi-employer unit" must be paid, on each payday, in lieu of general holidays, an amount equal to 3 per cent of his basic wage rate multiplied by the number of hours he has worked for the employer in the pay period.

An employee who is required to work on a general holiday is to be paid at not less than one and one-half times his basic rate of wages for the time worked by him on that day.

## **Saskatchewan**

In Saskatchewan, a minimum wage order requires employees who do not work on any of eight public holidays to be paid their regular pay. For workers in the construction industry and in logging and lumbering the order provides for payment of a lump sum in lieu of pay for the eight listed holidays. The eight holidays are New Year's Day, Good Friday, Victoria Day, Dominion Day, Labour Day, Thanksgiving Day, Remembrance Day and Christmas Day.

When Christmas or New Year's Day falls on Sunday, the following Monday is to be observed as a holiday. When the Monday following Remembrance Day is declared a holiday, it is to be observed as a holiday under the order. By agreement between an employer and a trade union representing a majority of the employees in an appropriate bargaining unit, another working day may be substituted for any of the eight listed holidays. Where workers are not represented by a trade union, the Minister of Labour may by order permit a similar substitution, if he is satisfied that the employer and a majority of the employees are in favour of the change.

The order applies to all employees except managerial employees, domestic servants in private homes, employees in farming, ranching and market gardening (other than in egg hatcheries, greenhouses, nurseries, and brush cleaning operations), and handicapped workers in sheltered workshops.

If required to work on a holiday, employees in almost all workplaces must receive, in addition to their regular pay for the holiday, time and one-half the regular rate for every hour or part of an hour worked, in effect, two and one-half times their regular pay.

A major exception to the above rule is that workers in hotels, restaurants, hospitals, nursing homes and educational institutions who are required to work on a holiday must be paid, in addition to their regular pay, wages at the regular rate. In addition to being paid their regular pay, full-time employees may be given time off equivalent to the hours worked on the holiday at regular rates within four weeks.

Persons engaged in the operation of a well-drilling rig are required to be paid at their regular rate of wages, plus their normal pay for the day, for work performed on a holiday.

The order provides that, where an employee's wages, exclusive of overtime, vary from day to day, pay for a public holiday is to be calculated on the basis of his average daily wage, exclusive of overtime, for the four immediately preceding days that bear the same name as the day on which the holiday occurs.

Workers in construction and in logging and lumbering who do not work on any of the eight specified holidays must be given holiday pay in a lump sum in an amount equal to 3 per cent of their gross wages for the calendar year, exclusive of overtime. Payment must be made on December 31 or on termination of employment, whichever occurs first. Where a majority of the employees in an appropriate bargaining unit are represented by a trade union, the union and the employer may,



by agreement in writing, elect that the workers be paid regular wages for each holiday, instead of a lump sum payment.

Construction workers who work on the holidays must be paid, in addition to the lump sum payment, wages at the rate of time and one-half their regular rate for all time worked. The latter amount must be paid in the pay period in which it is earned.

Workers in the logging and lumbering industries who work on a public holiday must be paid regular pay for all time worked, in addition to the lump sum payment to which they are entitled.

## **Alberta**

In Alberta, a general holiday order requires employers to give their employees seven paid holidays a year—New Year's Day, Good Friday, Victoria Day, Dominion Day, Labour Day, Thanksgiving Day and Christmas Day. Domestic servants in private homes, farm labourers (other than in commercial undertakings), municipal policemen and various categories of salesmen are excluded from entitlement to public holidays.

The rule is that, if one of the seven general holidays falls on a regular working day for the employee and he does not work on that day, he is entitled to his regular wages for the day.

If the employee is hired by the week or month, his wages must not be reduced by reason of his not working on the holiday. If he is paid on a daily or hourly basis, he must be paid at least the equivalent of the wages he would have earned for his normal hours of work. If his wages are calculated on other than an hourly, daily, weekly or monthly basis, he must receive the equivalent of his average daily earnings, exclusive of overtime, for the four weeks he worked immediately preceding the week in which the holiday occurred.

Where an employee is required to work on a general holiday, he must be paid his regular pay for the day and, in addition, his normal wages for all time worked, or he must be given a holiday with pay at some other time not later than his next annual vacation or on termination of employment, whichever occurs first.

An employee is not entitled to a holiday with pay if he has not worked for his employer for at least 30 days in the preceding 12 months; or if he does not work on the holiday when he has been required or scheduled to do so; or if he is absent without the employer's consent on either of the working days immediately preceding or following the holiday. If such an employee works on a general holiday, he must be paid at least his normal wages for all time worked.



If an employee is not required to work on a general holiday, he must not be required to work on another day of that week that would otherwise be a day of rest, unless he is paid his normal wages for the day, in addition to all other wages due him.

Construction workers in Alberta, with the exception of office staff, must be given holiday pay in a lump sum in lieu of being given a holiday with pay on each of the seven general holidays.

An employer in the construction industry is required to pay each of his employees a sum equal to 2.8 per cent of his regular pay for the period of his employment or the period since he was last paid such sum, whichever is shorter. Pay in lieu of holidays must be given on December 31 of each year or on termination of employment, whichever occurs first.

### **British Columbia**

In British Columbia, an order made under the Annual and General Holidays Act provides for eight paid general holidays a year—New Year's Day, Good Friday, Victoria Day, Dominion Day, Labour Day, Thanksgiving Day, Remembrance Day and Christmas Day. Another day may be substituted for any of the listed holidays.

The order does not apply to employees covered by a collective agreement under the Labour Relations Act. Also excluded are farm workers, horticultural workers, domestic servants, professional employees and trainees, salesmen of automobiles and other vehicles, mobile homes and heavy duty industrial equipment, and employees exempted by regulation from the Minimum Wage Acts (e.g., supervisory, managerial and confidential employees, policemen, firemen, commercial travellers, watchmen, caretakers, maintenance workers, employees on fishing boats, employees of the Pacific Great Eastern Railway, and handicapped employees).

If a holiday falls on a day that is a non-working day for the employee, he must be given a holiday with pay at some other time not later than his next annual vacation, or the day on which he is required to be paid vacation pay where he has not earned an annual vacation, or on termination of employment, whichever occurs first.

An employee who is not required to work on a general holiday that would otherwise be a working day must be paid his regular pay for the day. If he is paid by the week or month, his wages must not be reduced by reason of his not working on a holiday. If he is paid on any other basis, he must receive the equivalent of a normal day's pay.

Where an employee's working hours vary from day to day, or where his wages are not calculated on a time basis, his pay for a general holiday is to be deemed to be the average of his daily earnings, exclusive of overtime, for the days he has worked in the four-week period immediately preceding the week in which the holiday occurs.

An employee who is not required to work on a general holiday must not be required to work on another day of that week that would otherwise be a day of rest, unless he is paid at his regular rate for all hours worked, in addition to all other wages due him.

The general rule is that, where an employee is required to work on a holiday, he must be paid not less than time and one-half his regular rate of pay for all hours worked and, in addition, must be given a holiday with pay at some other time not later than his next annual vacation or the day on which he is required to be paid his accrued vacation pay, or on termination of employment, whichever occurs first.

Where an employee employed in a "continuous operation" is required to work on a holiday, he must, in addition to his regular rate of pay for the day, either be paid not less than time and one-half his regular rate for all hours worked or be given a holiday with pay at some other time. A "continuous operation" is defined as an operation or service normally carried on without regard to Sundays or public holidays.

For purposes of these provisions, an employee's "regular rate" is to be deemed to be the average of his hourly earnings, exclusive of overtime, for the hours he has worked in the four-week period immediately preceding the week in which the holiday occurs.

An employee is not entitled to pay for a general holiday that occurs in his first 30 days of employment. An employee is also excluded from holiday benefits if he has not earned wages for at least 15 days during the 30 calendar days immediately preceding the holiday.

Where certain employees of an employer are bound by a collective agreement, and other employees of the same employer are entitled to the general holidays provided for in the order, the employer may, with the approval of the Board of Industrial Relations, substitute a holiday specified in the agreement for a general holiday under the order, so that all his employees will be entitled to a holiday on the same day.

## **Manitoba**

In Manitoba, the Employment Standards Act provides for seven paid general holidays a year—New Year's Day, Good Friday, Victoria Day, Dominion Day, Labour Day, Thanksgiving Day and Christmas

Day. Under certain conditions, another day may be substituted for any of the holidays named in the Act.

The holiday provisions do not apply to independent contractors, persons employed in agriculture, fishing, fur farming, dairy farming or growing horticultural or market garden products for sale, domestics in private homes, students and practitioners of professions governed by statute.

An employee who does not work on a holiday that falls on a regular working day is entitled to be paid at least the equivalent of the wages he would have earned on that day. When an employee's wages vary from day to day, his holiday pay must be at least equivalent to his average daily earnings, exclusive of overtime, for the days he worked during the 30 calendar days preceding the holiday. The holiday pay must be paid whether or not the employee is on the employer's payroll at the time of the general holiday, unless the employee has voluntarily terminated his employment before that day.

Should a holiday occur on a day that is a non-working day for the employee, he must be granted a day off with pay in lieu of the holiday not later than at the time of his next annual vacation or at a time convenient to him and his employer.

If New Year's Day, Dominion Day or Christmas Day falls on a Saturday or Sunday that is a non-working day for the employee, he must be given a holiday with pay on the working day immediately before or after the holiday.

An employer must not require an employee who has not worked on the holiday to work on another day in the holiday week that would otherwise be his day of rest, unless he is paid one and one-half times his regular rate for the work done on that day.

An employee who is required to and does work on a general holiday is entitled to his regular pay for the day and, in addition, to one and one-half times his regular rate for all time worked.

An employee is not entitled to holiday pay in the following situations: if he has not earned wages on at least 15 days during the 30 calendar days immediately preceding the holiday; if he did not report for work in response to a call from the employer, except where he is dismissed or laid off by his employer or ill; or if he is absent without the employer's consent on the regular working day immediately preceding or following the holiday, unless absent because of established illness. However, an employee who is not entitled to holiday pay for any of the above reasons must be paid at the overtime rate if he works on the holiday.

Employees in the construction industry are entitled to a lump sum in lieu of paid holidays. Each employee must be paid 2 per cent of his total gross wages, exclusive of overtime, for the calendar year. This amount must be paid by December 31 or on termination of employment. Where an employee in the construction industry is required to work on a holiday, he must be paid at one and one-half times his regular rate for the time worked, in addition to the lump sum.

Special provisions are also applicable to employees in a continuously operating plant, seasonal industry, place of amusement, gasoline service station, hospital, hotel or restaurant, or in domestic service other than in private homes. For these employees, equivalent compensatory time off may be substituted for overtime pay for holidays worked. The time off must be granted within 30 days and the employee must be given at least two days' notice of his day off. At the request of the employee, he and his employer may agree to a later date.

A special Act in Manitoba deals with the observance of Remembrance Day. Work must not be performed on the holiday except in farming, in certain listed essential services, in continuously operating plants, or in emergency circumstances on permit from the Minister of Labour.

An employee who is required to work on Remembrance Day must be paid at least his regular rate of wages and must be granted a day off with pay within 30 days before or after the holiday. In lieu of being given a day off, an employee must be paid twice his regular rate for the time worked. Where an employee is called in to work, he must be paid for the time worked or for not less than half the normal working hours of a regular working day, whichever is greater.

## **Ontario**

The Ontario Employment Standards Act requires the payment of overtime pay for work done on seven public holidays. The holidays are New Year's Day, Good Friday, Victoria Day, Dominion Day, Labour Day, Thanksgiving Day and Christmas Day. If New Year's Day, Dominion Day or Christmas Day fall on a Sunday, the following day is to be considered a holiday. Where an employee works on any of these holidays, he must be paid not less than one and one-half times his regular rate. The employee's regular rate of pay must not be reduced in order to conform with this requirement.

Overtime pay does not have to be paid to an employee who, in the opinion of the Director of Employment Standards, is guaranteed



more favourable benefits in respect of work performed on a holiday under an agreement or arrangement with his employer.

Certain categories of workers are excluded from the holiday provisions of the Act. Among these are domestic servants, persons engaged in commercial fishing, professional and managerial employees, farm workers, resident janitors, commission salesmen, taxi drivers, ambulance drivers and their helpers, and seasonal employees in the hotel, motel, tourist resort, restaurant and tavern industry (who do not work more than 16 weeks in a year and are provided with room and board).

## **Nova Scotia**

In Nova Scotia, the general minimum wage order provides that, if an employee is required to work on a holiday which is not a regular working day for that employee, the employer must either pay him at the rate of time and one-half the minimum rate, or grant him time off equivalent to one and one-half hours for every hour worked on the holiday. The same conditions are laid down for workers in road building and heavy construction and for workers in beauty parlours. "Holiday" is not defined in the orders, but as defined in the provincial Interpretation Act, includes New Year's Day, Good Friday, Victoria Day, Dominion Day, Labour Day, Remembrance Day, Christmas Day, the day appointed for the celebration of the Sovereign's birthday, and any day provided for by a provincial Act or by proclamation of the Governor General or the Lieutenant Governor as a general holiday or for general fast or thanksgiving. Wherever a holiday other than Remembrance Day falls on a Sunday, the term "holiday" includes the following day.

Employees in a motel, hotel, restaurant, tourist resort or hospital may be paid the regular straight-time rate for work done on a holiday.

### **OTHER LEGISLATION DEALING WITH HOLIDAYS**

Provisions in the minimum wage order of Manitoba deal with the question of pay for public holidays to the extent of prohibiting deductions from the minimum wage for time not worked on a holiday.

Workers are protected against a reduction in the minimum wage for time not worked on a general holiday (as listed above) which falls on a regular working day. Where an employee does not work on a holiday but does work the regularly scheduled hours on the day immediately preceding and following the holiday and on all the other working days in the week, he is to be deemed, for the purpose of determining the minimum amount of wages to be paid to him for that



week, to have worked regular hours on the holiday. An employee does not lose the benefits of this provision through being absent on either the day before or the day after the holiday because of established illness or with the employer's consent.

Under the Municipal Act of British Columbia, shops in all municipalities must be closed on Christmas Day and the day immediately following, New Year's Day, Good Friday, Dominion Day, Victoria Day, Labour Day, Remembrance Day, the Queen's birthday, Thanksgiving Day and any day designated as a provincial or municipal holiday. There is also legislation in Newfoundland requiring shops to be closed on 12 specified public holidays and on one additional holiday fixed by the municipality.

The Québec Commercial Establishments Business Hours Act requires shops to remain closed on New Year's Day, Easter Monday, St. Jean Baptiste Day or the day following if June 24 is a Sunday, Dominion Day or the day following if July 1 is a Sunday, Labour Day, Thanksgiving Day, Christmas Day or any other day fixed by proclamation of the Lieutenant Governor in Council. Shops must not open before 1 p.m. on Boxing Day or on January 2.

Provisions prohibiting work on specified public holidays except with a permit, stipulating that certain holidays must be observed as paid holidays, or requiring the payment of an overtime rate for work done on specified holidays are regular features of the decrees under the Québec Construction Industry Labour Relations Act and Collective Agreement Decrees Act and of industrial standards schedules in Alberta, Newfoundland, New Brunswick, Nova Scotia, Ontario, Prince Edward Island and Saskatchewan. These provisions, while regulating a considerable portion of industry, particularly in Québec, apply only to certain trades and areas in the province concerned. They are not dealt with in this publication.

## TERMINATION OF EMPLOYMENT

The federal jurisdiction and seven provinces—Manitoba, Newfoundland, Nova Scotia, Ontario, Prince Edward Island, Québec and Saskatchewan—have legislation requiring an employer to give notice to the individual worker whose employment is to be terminated. Five of these provinces place an equal obligation on the employee to give notice to his employer on quitting his job.

In addition, the Parliament of Canada, Ontario and Québec require an employer to give advance notice of a projected termination of

employment or layoff of a group of employees. The purpose of notice of group termination legislation is to permit government authorities to develop and carry out programs for the re-establishment in other jobs of the employees affected.

The Canada Labour Code also provides for severance pay for employees with five years' service or more.

In five jurisdictions the legislation is part of the labour code: the Canada Labour Code, Parts V.2, V.3 and V.4; the Manitoba Employment Standards Act, Part III; the Ontario Employment Standards Act, Part II; the Prince Edward Island Labour Act, Part II; and the Saskatchewan Labour Standards Act, Part IV. In Nova Scotia, notice provisions are contained in the Minimum Wage Act. Newfoundland has a separate law, the Employment (Notice of Termination) Act. The provisions in Québec governing individual notice are contained in the Civil Code; notice of group termination requirements are laid down in Section 45 of the Manpower Vocational Training and Qualification Act.

### **Nova Scotia, Prince Edward Island and Saskatchewan**

In Nova Scotia, Prince Edward Island and Saskatchewan an employer is forbidden to discharge or lay off an employee who has been in his service continuously for three months or more without giving him at least one week's written notice.

"Layoff" is defined in Saskatchewan and Nova Scotia as the temporary termination of an employee's services for a period of more than 6 days.

In all three provinces, on termination the employee is entitled to his actual earnings during the week or his normal wages for one week, exclusive of overtime, whichever amount is greater. If notice is not given, the employee is entitled to his normal wages for one week, exclusive of overtime. In Saskatchewan and Nova Scotia, where an employee's wages vary from week to week, his normal weekly wage is to be obtained by averaging his earnings, exclusive of overtime, for the four-week period immediately preceding the date on which notice was given or, if no notice was given, the date of discharge or layoff.

The Nova Scotia and Prince Edward Island Acts also require an employee with three months' service or more to give his employer at least one week's notice of his intention to terminate his employment.

In Nova Scotia, when employment is terminated for any reason or after any period of employment, the employer is required to pay all wages owing within 10 days.

The requirement to give notice applies to all employees and their employers except farm workers in all three provinces and domestic servants in Nova Scotia and Prince Edward Island. Saskatchewan also excludes ranching, market gardening and employees employed in family undertakings, and Prince Edward Island excludes construction, tourist establishments operating less than six months in a year, and students employed during the period May 1 to October 1.

In certain circumstances notice is not required; namely, discharge for just cause other than shortage of work in Saskatchewan and Nova Scotia and just cause *including* shortage of work in Prince Edward Island. Nova Scotia also exempts situations where another period of notice or another time of payment of wages is provided for in a written contract of employment between the employer and employee or in a collective agreement between the employer and a trade union of which the employer is a member; and termination or layoff caused by listed circumstances beyond the employer's control, such as force majeure, certain economic conditions and labour disturbances.

## **Manitoba**

In Manitoba, an employer or employee in any work or occupation, except farming, must give notice of termination of employment and, except in the case of a person paid less frequently than once a month, the period of notice required is one regular pay period. If employees are paid less often than once a month, reasonable notice must be given. Notice of termination is not required if an employee is hired for a fixed period.

The requirements for giving notice do not apply if a general custom or practice prevails in an industry which is contrary to the terms of the Act or where different conditions concerning notice are established by collective agreement. If employment is terminated during an employee's first two weeks in a job, notice is not required unless the employer and employee have agreed in writing that the requirements of the Act will apply.

An employer is permitted to establish a practice whereby employment may be terminated with a shorter period of notice than that provided for in the Act, and the practice is considered to have been established one month after he has notified each of his employees in writing of the practice and has posted a notice setting out the terms of the practice. Each new employee must be informed of the practice by written notice at the time employment begins.

Complaints of failure to give the required notice may be made in writing to the Minister of Labour within a period of 90 days after employment is terminated. A procedure is laid down in the Act for the settlement of such complaints.

## **Newfoundland**

In Newfoundland, both the employer and the employee are required to give notice of termination of employment. Where an employee is paid once a month or more often, the required period of notice is one regular pay period. Where the employee is paid less often, reasonable notice must be given. In lieu of notice, an employer may pay an employee the normal wages, exclusive of overtime, that he would have earned during the period of notice.

Notice of termination is not required where employment is interrupted by a strike or lockout, or during the first month of employment or where the employee is hired for a fixed period or for the performance of specified work, unless by mutual agreement the work is continued after the end of the period or the completion of the work.

The requirements of the Act regarding the period of notice do not apply where a different period is established in a collective agreement, or in a written agreement or employment between the employer and employee, if the notice period is of equal length for both parties. Further, a well established general custom or practice in any industry respecting the period of notice may be continued, in lieu of the period of notice provided for in the Act.

All employers and employees within the jurisdiction of the province are covered by the Act. Regulations may be made exempting any industry or class of persons from coverage.

## **Federal**

### *Individual Notice*

Employees who have been continuously employed for 3 months or more are entitled to two weeks' notice of termination of employment or layoff. Regulations may define circumstances in which notice is not required for layoff. In lieu of notice, the employer may pay an amount equivalent to two weeks' wages at the employee's regular rate for his regular hours of work.

The requirement to give notice does not apply to superintendents, managers or members of listed professions, or where an employee is dismissed for just cause.



Where an employee continues to be employed for more than two weeks after the termination date specified in the notice, his employment must not be terminated, except with his written consent, unless notice is given again.

The Code takes into account the bumping provisions that may be contained in collective agreements. Where a collective agreement authorizes that an employee whose position becomes redundant may replace another employee on the basis of seniority, the notice requirement may be met either by giving at least two weeks' notice to the union and the employee and posting a copy of the notice in a conspicuous place in the establishment, or by giving pay in lieu of notice to the employee whose employment is actually terminated.

After notice has been given, wages and other conditions of employment must not be altered, except with the written consent of the employee. During the notice period the employee must be paid his regular wages for his regular hours of work.

### *Group Termination*

The Code also requires that the employers give advance notice of group dismissals where the employment of 50 or more persons is to be terminated simultaneously or within a four-week period. Regulations may be made providing for advance notice where a lesser number of employees is being dismissed.

For purposes of group dismissal, layoff is equivalent to termination, except in circumstances to be determined by regulations.

The length of the notice period varies according to the number of employees being dismissed:

50-100 .....	8 weeks
101-300 .....	12 weeks
over 300 .....	16 weeks

Superintendents and managerial employees are to be included in calculating the number of employees being dismissed. Regulations may exempt persons employed on a seasonal or irregular basis.

Advance notice must be given in writing to the Minister of Labour, with copies to the Department of Manpower and Immigration and the trade union. Where there is no union, notice must be given to the employees being dismissed, either in writing or by posting a notice in the establishment.

The notice must state the anticipated date of dismissal and the estimated number of employees in each occupational classification whose employment is to be terminated. Regulations may require that



the notice include additional information. In addition, the employer and trade union must provide the Manpower and Immigration Department with whatever information it requests in order to assist the employees. Both are required to co-operate with that Department in order to facilitate the re-employment of the dismissed employees.

The requirement to give group notice may be waived for an industrial establishment or specified group of employees by an order of the Minister of Labour if he is satisfied that the requirement would be unduly prejudicial to the interests of the employees or the operation of the establishment.

## **Ontario**

### *Individual Notice*

In Ontario, an employer is required to give notice in writing to an employee whose employment is to be terminated, provided the employee has completed three months' service or more. The length of notice varies with the period of employment, as follows:

3 months to 2 years .....	1 week
2 to 5 years .....	2 weeks
5 to 10 years .....	4 weeks
10 years or more .....	8 weeks

A period of employment constitutes the period between the time employment first began and the time that notice was or should have been given. Service before the coming into force of these provisions is to be counted. Successive periods of employment may be accumulated, unless there has been a break of more than 13 weeks in employment. In such a case the period of last employment constitutes the length of service for purposes of notice.

### *Group Notice*

The group notice requirement applies when an employer plans to terminate the employment of 50 or more persons within four weeks or less. The length of notice is related to the number of workers involved. The minimum written notice that must be given by the employer to the employee and to the Minister of Labour is:

50-199 .....	8 weeks
200-499 .....	12 weeks
500 or more .....	16 weeks

Where not more than 10 per cent of the persons employed in an establishment are to be dismissed in a four-week period, and these total 50 or more persons, the requirements for notice in case of individual

dismissal apply, *unless* the termination is caused by the permanent discontinuance of all or part of the employer's business.

Persons who have been employed for less than three months are not to be counted in determining the number employed in an establishment and are not entitled to notice.

In case of a collective dismissal, the employer is required to cooperate with the Minister during the period of notice in any action or program designed to re-establish the dismissed workers in employment.

Employees who have received notice of a collective termination of employment are required to give written notice to their employer that they intend to quit their jobs. One week's notice is obligatory for an employee who has worked for the employer for less than two years, and two weeks' notice for one who has been employed for two years or more.

### *General Provisions*

A number of provisions are applicable to both individual and group notice.

Where notice is given, employment must continue until the notice has expired. The length of notice may not include any week of vacation, unless the person, after receiving the notice, agrees to take his vacation during the notice period. Where a person continues to be employed after the expiry of the notice for a period exceeding the length of the notice, he must again be given notice before his employment may be terminated.

Under the legislation, the employer is required to give the prescribed notice or to pay the wage or salary equivalent. The employer terminating the employment of an employee without notice must notify him in writing to this effect and pay him the equivalent of the wages he would have earned for working regular hours during the notice period. Compensation payable in lieu of notice is deemed wages for purposes of the Act.

The employer is forbidden to alter the wage rate or any other term or condition of employment of a person to whom notice has been given, and upon the expiry of the notice must pay him the wages and vacation pay to which he is entitled.

The Act covers layoffs other than "temporary layoffs," as defined. Notice of indefinite layoff is deemed to be notice of termination of employment.

A "temporary layoff" is defined as: (1) a layoff of not more than 13 weeks in any period of 20 consecutive weeks; (2) a layoff of more than 13 weeks where (a) the person continues to receive payments from the employer, (b) the employer continues to make pay-

ments for the benefit of the person laid off under a *bona fide* retirement or pension plan or under a *bona fide* group or employee insurance plan, (c) the person laid off receives supplementary unemployment benefits, or (d) he is entitled to receive supplementary unemployment benefits but does not receive them because he is employed elsewhere during the layoff; or (3) a layoff of more than 13 weeks where the employer recalls the person within the time fixed by the Director of Employment Standards.

The notice provisions do not apply to a person who is laid off or whose employment is terminated during or as a result of a strike or lockout at his place of work. Also exempted from the requirement to receive notice are: (1) a person who is laid off after (a) refusing an offer by his employer of reasonable alternate work or (b) refusing alternate work made available to him through a seniority system and (2) a person on layoff who does not return to work within a reasonable time after being requested to do so by his employer.

An employer is not required to give notice to a person employed for a definite term or task. Where, however, a term or task exceeds a period of 12 months or the person continues to be employed for three months or more after completion of the term or task, the notice provisions apply.

A person who has been guilty of wilful misconduct, disobedience or wilful neglect of duty that has not been condoned by the employer is not entitled to notice, and notice is not required where a contract of employment becomes impossible of performance or is frustrated by a fortuitous or unforeseeable event or circumstance.

An employee may terminate his employment forthwith upon notice if his employer has been guilty of a breach of the terms and conditions of employment.

The construction industry has been exempted from the requirement to give notice. Other employers are covered, including the Crown and its agencies. Those entitled to notice include professional employees, teachers, commercial fishermen, domestic servants, farm workers and salesmen.

## Québec

### *Individual Notice*

In Québec, Section 1668 of the Civil Code requires a domestic servant, journeyman or labourer engaged by the week, month or year to give one week's notice of termination of employment if hired by the week, two weeks' notice if by the month, and a month's notice if by the

year. The employer must give similar notice where an employee's services are no longer required. In lieu of notice, the employer may pay the employee the wages he would have earned during the notice period.

Some decrees under the Québec Collective Agreement Decrees Act require the giving of notice of termination of employment.

### *Group Notice*

Under the Québec legislation respecting collective dismissals, an employer who, for technological or economic reasons, contemplates the dismissal of 10 or more employees within a period of two months is required to give advance notice to the Minister of Labour and Manpower. The minimum periods of notice required, varying with the number of workers to be dismissed, are:

10 to 99 .....	2 months
100 to 299 .....	3 months
300 and over .....	4 months

"Employee" does not include a seasonal or casual worker or a director or officer of a corporation.

The requirement to give notice does not apply to an employer in the construction industry or to an employer carrying on an undertaking of a seasonal or intermittent nature. The legislation does not apply to an establishment involved in a strike or lockout.

Layoffs are included in the term "dismissal" but the employer does not have to give notice if he lays off employees for an indefinite period of time, unless the layoff will continue for more than six months.

Where a fortuitous or unforeseeable event prevents an employer from giving notice, he must inform the Minister as soon as he is in a position to do so and furnish proof that he was unable to comply with the law. The Minister will then determine, in consultation with the employer, the period of notice that must be given.

The notice, which must be mailed by the employer to the Manpower Branch of the Department, and which becomes effective on the date of mailing, is to contain: (a) name and address of the employer or establishment; (b) nature of the principal product or service; (c) names and addresses of associations of employees; (d) reasons for the collective dismissal; (e) date on which the collective dismissal will be made; (f) full name of each employee likely to be dismissed.

The legislation also requires the employer, at the request of the Minister, to participate immediately in the establishment of a reclassification committee, whose task is to study and recommend practical measures for the re-establishment of the dismissed employees. The



certified trade union or the employees, if there is no union, must be equally represented on the committee. The employer must contribute funds to the committee to the extent agreed upon by the parties. The Manpower Branch of the Department is responsible for the establishment and functioning of such committees.

The parties may, with the Minister's consent and subject to conditions laid down by him, establish a reclassification fund. If necessary, several employers and several certified trade unions may establish a joint fund.

### Notice of Individual Termination

Jurisdiction	Notice Required	Application
Federal	2 weeks	Employers in federal industries Exclusion: employed less than 3 months, superintendents, managers, members of professions
Manitoba	Pay period	Employers and employees Exclusion: employed less than 2 weeks, farm workers
Newfoundland	Pay period	Employers and employees Exclusion: employed less than 1 month
Nova Scotia	1 week	Employers and employees Exclusion: employed less than 3 months, farm labourers, domestic servants.
Ontario	Employed less than 2 years: 1 week 2 to 5 years: 2 weeks 5 to 10 years: 4 weeks Over 10: 8 weeks	Employers (special provisions for employees under notice of mass layoff) Exclusion: employed less than 3 months, construction
Prince Edward Island	1 week	Employers and employees Exclusion: employed less than 3 months, farm workers, construction.
Québec	Hired by week: 1 week Hired by month: 2 weeks Hired by year: 1 month	Listed employees and their employers: domestics, servants, journeymen, labourers
Saskatchewan	1 week	Employers Exclusion: employed less than 3 months, farming, ranching, market gardening



## MATERNITY PROTECTION

Legislation to ensure the health and job security of women workers before and after childbirth is in force in the federal jurisdiction and in British Columbia, New Brunswick and Ontario.

The federal maternity leave provisions are contained in the Canada Labour Code, Part III, Division V.1. British Columbia has a special law on the subject, the Maternity Protection Act. The New Brunswick provisions are Sections 11-13 of the Minimum Employment Standards Act, a law which regulates various conditions of employment. The Ontario maternity protection provisions form part of the Women's Equal Employment Opportunity Act.

The Canada Labour Code states that a woman who has been continuously employed by her employer for at least one year is entitled to 17 weeks of maternity leave. Employment is deemed continuous where a business is sold or otherwise transferred to a new employer. The employee must make application at least four weeks before her leave is to begin and she must also submit a certificate from a qualified medical practitioner specifying the estimated date of delivery.

The 17 weeks of maternity leave is made up of 11 weeks' voluntary prenatal leave, which is to be extended to the actual date of delivery, and of six weeks' compulsory postnatal leave. The postnatal leave may be shortened by mutual agreement of the employer and employee, if the woman submits a medical certificate certifying that the resumption of employment at the earlier time will not endanger her health.

Provision is also made for up to 11 weeks of prenatal leave in special cases where a woman has not submitted an application as required by the Code. The employee must present her employer with a medical certificate specifying the probable date of delivery and certifying that during her period of leave she was incapable of performing her normal duties because of a condition arising out of her pregnancy that was not anticipated by the physician.

Job security is guaranteed by prohibiting dismissal or layoff of an employee who is entitled to maternity leave solely because she is pregnant or because she has applied for maternity leave. An employee who resumes work after leave must be reinstated in the position she occupied before leave began or in a comparable position with not less than the same wages and benefits. Maternity leave is not to interrupt continuity of employment for purposes of calculating pension or other benefits.

In Ontario, an employee must have worked continuously for her employer for at least one year in order to be eligible for maternity leave benefits.

All three provincial Acts provide for 12 weeks of maternity leave, six weeks before and six weeks after childbirth, with the postnatal leave being compulsory. On production of a medical certificate showing the expected date of confinement, the employee must be granted a period of leave of up to six weeks preceding the specified date. The Ontario Act stipulates that the period of voluntary leave is to extend to the actual date of delivery.

In Ontario, the employer has the right to require the employee to commence her leave at any time, if the duties of her position cannot reasonably be performed by a pregnant woman or if her performance is materially affected by the pregnancy. The employee must produce a doctor's certificate, when required to do so by the employer.

The British Columbia and New Brunswick Acts forbid the employer to permit an employee to work during a six-week period following childbirth or during a longer period than six weeks, if recommended in a medical certificate. The Ontario law does not provide for extension of the postnatal leave on medical grounds. It places an obligation on both the employee and the employer to observe the six weeks' compulsory leave, unless a shorter period is recommended in writing by a medical practitioner.

In all three provinces, the right to maternity leave is supplemented by a guarantee that an employee will not lose her employment because of her absence on maternity leave. In Ontario, a woman with a minimum of one year's service is protected against dismissal throughout pregnancy. In British Columbia and New Brunswick, an employer is forbidden to give notice of dismissal, and, in British Columbia, to dismiss an employee, for reasons arising out of absence on maternity leave during a period of 16 weeks.

In Ontario, the employer is required to permit the employee to resume work with no loss of seniority or accrued benefits.

The Ontario provisions are enforced through the filing of a complaint with the Director of the Ontario Women's Bureau or through investigations of inspection staff. A complaint may be filed by any person who has reasonable grounds for believing that the Act has been contravened but the Director may, before filing the complaint, require the consent of the person concerned.

Laws in Alberta and Ontario give authority to the Board of Industrial Relations and the Lieutenant Governor in Council, respectively, to deal with the matter of maternity protection by regulations.

Under a provision of the Alberta Labour Act, enacted in 1947, the Board of Industrial Relations has authority to regulate and prohibit the employment of women during and following pregnancy. The Board has not exercised this authority.

The Ontario Industrial Safety Act, 1964, which provides for the making of regulations on a wide variety of matters to ensure the safety and health of persons employed in industrial establishments, authorizes the making of regulations to regulate the employment of pregnant women in factories and shops. No such regulations have been issued.

## **LABOUR STANDARDS IN THE YUKON AND NORTHWEST TERRITORIES**

Labour standards legislation has been enacted by the Territorial Council of the Yukon and Northwest Territories in most of the fields of legislation covered by this publication. Labour Standards Ordinances, modelled on the Canada Labour Code Part III (Labour Standards), with modifications to meet the particular requirements of the Territories, went into force July 1, 1968. The Ordinances established minimum standards of hours of work, wages, annual vacations and public holidays for employees in the Territories. Previous to the enactment of the Northwest Territories Ordinance, the only labour standards applicable were those established by mines legislation. Standards in the Yukon Ordinance replaced those previously laid down in the Yukon Labour (Minimum Wages) Ordinance, the Labour Provisions Ordinance and the Annual Vacations Ordinance.

The Commissioner of each Territory is to administer the Ordinance, with the advice and assistance of an Advisory Board, consisting of a chairman, an employers' representative and an employees' representative. Provision was made for the appointment of a Labour Standards Officer to administer the Ordinance, under the Commissioner's direction, and for the appointment of inspectors.

The Ordinances apply to employers and employees in any work, undertaking or business of a local or private nature in the Territory. The Northwest Territories Ordinance excludes domestic servants in private homes, trappers, persons engaged in commercial fisheries, and managers or superintendents or persons who exercise management

functions. Members or students of designated professions may be excluded by regulations. The Yukon Ordinance applies generally but certain classes of employees are excluded from Part I governing hours of work.

### **Statutory School-Leaving Age**

In both Territories, a School Ordinance provides for compulsory school attendance to the age of 15. In the Northwest Territories, if a child reaches his 15th birthday after December 31, he must attend to the end of the school year. As in the provinces, a child may be exempted from school attendance if he is under instruction in some other satisfactory manner, if he is prevented from attending school for any unavoidable cause, or if he has reached a standard of education equal to or higher than that to be attained in the school. In the Northwest Territories, a child may be allowed to leave school before the statutory school-leaving age if he has completed Grade VIII or its equivalent. An exception is also permitted in the Northwest Territories in the case of a child who is unable to attend because of distance from school or lack of school accommodation.

### **Minimum Age for Employment**

Under a Mining Safety Ordinance in each Territory, the minimum age for employment below ground is 18 years and the minimum age for employment above ground, 16 years.

Under the Labour Standards Ordinances of both Territories, regulations may be made laying down conditions under which young persons under the age of 17 years may be employed.

### **Minimum Wages**

Both Ordinances require the payment of a minimum rate of wages to employees who are 17 years of age and over of \$1.50 an hour in the Northwest Territories and \$1.75 an hour in the Yukon Territory.

Employees paid on other than a time basis, such as pieceworkers and person paid a mileage rate, are required to receive the equivalent of the minimum wage.

In the Northwest Territories, Labour Standards Regulations were issued under the Labour Standards Ordinance. Under these Regulations, an employee who is required to report for work must be paid a minimum of 4 hours' pay at his regular rate. The maximum deductions that may be made for board and lodging are 50 cents a meal and 60 cents a



day for lodging. An employee's wages must not be reduced below the minimum wage for meals supplied, the furnishing and upkeep of uniforms or for accidental breakages.

## **Hours of Work**

The Mining Safety Ordinances of both Territories provide for a maximum eight-hour day for work below ground in mines.

Under the Labour Standards Ordinance of the Northwest Territories, standard hours of work are 8 in a day and 48 in a week for most employees. Except in special circumstances, maximum hours are 10 in a day and 60 in a week.

Different standards are laid down for certain classes of employees. Standard hours of 208 in a month have been established for persons employed in exploration and development of metal mining and petroleum (including geophysical, geological, seismological and diamond drilling work), the transport of goods to and from isolated areas, and in tourist camps. For these employees, maximum hours are 260 in a month.

In the Yukon Territory, standard hours are 8 in a day and 48 in a week except for employees in shops, for whom standard hours of 8 in a day and 44 in a week are established. "Shop" is defined as an establishment where wholesale or retail trade is carried on or where services are dispensed to the public for profit. Maximum hours of work permitted are 10 in a day, 60 in a week and 260 in a month. Overtime beyond the limits of 8 and 48 hours is prohibited for employees engaged in mining operations underground in a shaft or tunnel.

In all cases where an employee is required or permitted to work in excess of standard hours, he must be paid one and one-half times his regular rate.

Averaging of hours over a period of two or more weeks is permitted under both Ordinances. The manner and circumstances in which averaging may be allowed are to be prescribed by regulations.

Exceptions from maximum hours are permitted in certain circumstances.

Where work in an industrial establishment is seasonal or intermittent in nature, the Commissioner, after having considered the nature of the establishment, the conditions of employment and the welfare of the employees, may issue an order permitting excess hours to be worked.

In the Northwest Territories, hours in excess of maximum hours (10 and 60 or 260, as the case may be) may be worked with a permit issued by the Labour Standards Officer, when the applicant has satisfied



him that there are exceptional circumstances to justify the working of additional hours.

Under both Ordinances, maximum hours may be exceeded in an emergency due to an accident, breakdown in machinery or other unpreventable circumstances. Details of such emergency work must be reported (in the Yukon, only upon request).

The hours of work provisions of the Yukon Ordinance do not apply to members of the employer's family, individuals who search for minerals, travelling salesmen, domestic servants, farm labourers, and supervisory and managerial employees. Members and students of professions and other persons or classes of persons may be excluded by regulations.

Persons employed as hunting or fishing guides are exempted from the hours of work provisions of the Northwest Territories Ordinance.

### **Weekly Rest-Day**

Both Ordinances provide that, unless an exception is made by regulations, employees must be given at least one full day of rest in each week, and that the normal day of rest must be Sunday wherever practicable.

### **Annual Vacation with Pay**

Under both ordinances, employers are required to give their employees an annual vacation with pay of at least two weeks in respect of every completed year of employment.

A "year of employment" is defined as continuous employment of an employee by one employer for a period of 12 consecutive months beginning with the date employment began or any subsequent anniversary date.

Vacation pay is 4 per cent of the employee's wages for the year of employment in respect of which he is entitled to a vacation. The vacation must be granted not later than 10 months after the date on which the employee becomes entitled to it. Vacation pay must be given at least one day before the vacation is to begin or at an earlier date, if the regulations so prescribe.

The Yukon Ordinance provides that, if a general holiday occurs during an employee's vacation, the vacation is to be extended by one day in lieu of the holiday, and that the employee must be paid the wages to which he is entitled for the holiday, in addition to his vacation pay. The Northwest Territories Ordinance states that, where a general

holiday occurs during an employee's vacation, the vacation is not to be extended, and no additional holiday or wages must be given to the employee.

When employment is terminated during a year, the employee is entitled to any vacation pay owing to him in respect of a previous completed year of employment and to 4 per cent of his wages for the period he has worked during the year. An employee is not entitled to vacation pay, however, unless he has been continuously employed for 30 days or more.

When a business changes hands, an employee is considered to have been in continuous employment before and after the transfer.

The Yukon Ordinance excludes from its annual vacation provisions employees who are members of the employers family.

### **Public Holidays**

In both Territories, employees are entitled to a holiday with pay in respect of each of the general holidays listed in the Ordinance. Both Ordinances provide for the same eight general holidays as are named in the federal Code but in the Yukon Ordinance a ninth holiday, Discovery Day, is provided for. Another holiday may be substituted for any of the listed holidays.

The Yukon Ordinance states that, where a general holiday falls on a Sunday, the Monday following is to be a holiday with pay.

The Labour Standards Officer may allow another holiday with pay to be substituted for a general holiday if another holiday is specified in a collective agreement or, where there is no collective agreement, if an employer applies for a substitution and the majority of the employees agree.

In the Northwest Territories, an employee is entitled to a holiday with pay only when a general holiday falls on a regular working day.

In the Northwest Territories, if an employee is required to work on a holiday, he must be paid his regular pay for the day and must, in addition, be paid at his regular rate of wages for the hours worked or he must be given a holiday with pay at a time convenient to him and his employer, not later than his next annual vacation or on termination of employment, whichever occurs first.

The Yukon Ordinance follows the Canada Labour Code Part III, (Labour Standards), in requiring, for work done on a holiday, payment of regular pay plus wages at the rate of time and one-half for the hours worked. This provision does not apply to custodial work or essential

services as prescribed by regulations. A person employed in any such employment must be granted a holiday with pay at another time in lieu of a holiday on which he was required to work.

An employee who is not required to work on a general holiday must not be required to work on another day of that week that would otherwise be a non-working day, unless he is paid at least double his regular rate of wages in the Northwest Territories, or at least one and one-half times his regular rate of wages in the Yukon, for the time worked by him on that day.

The circumstances under which payment of holiday pay is not required differ in the Ordinances.

In the Yukon, an employee is not entitled to pay in respect of a holiday on which he does not work (a) if the holiday occurs in his first 30 days of employment with an employer, or (b) if he is not entitled to wages for at least 15 days in the 30 calendar days immediately preceding the holiday, or (c) if he has not worked an average of 24 hours a week during the four-week period immediately preceding the week in which the holiday falls (excluding any period of annual vacation), or (d) if he did not report for work on the holiday after having been called to work, or (e) if, without his employer's consent, he did not report for work on either the day preceding or the day following the holiday.

Under the Northwest Territories Ordinance, an employee is not entitled to be paid for a holiday if he has not worked for his employer for at least 30 days in the preceding 12 months. Other exceptions are the same as in (d) and (e) above.

## **Equal Pay**

The Northwest Territories Fair Practices Ordinance, which is a human rights code, also provides for equal pay for equal work. An employer is forbidden to pay a female employee at a lesser rate than the rate paid to a male employee for the same work done in the same establishment. A difference in rates based on a factor other than sex does not constitute discrimination.

This prohibition does not apply to employers who employ fewer than 5 employees, to domestic employment, or to non-profit charitable, philanthropic, educational, fraternal, religious or social organizations or those operated primarily to foster the welfare of a religious or racial group.

Enforcement is initiated by complaint of the aggrieved person to the officer appointed by the Commissioner of the Northwest Territories to

deal with such matters. The Commissioner may then appoint an officer to enquire into the complaint. If settlement is not reached through conciliation, the officer must recommend to the Commissioner the action that should be taken with respect to the complaint. The Commissioner may issue whatever order he thinks necessary to put the recommendations into effect. A person affected by the order may appeal it within 10 days to a judge of the Territorial Court, whose decision is final.











# **Labour Standards in Canada**

**December 1972**



**Labour  
Canada**

Legislative  
Research

**Travail  
Canada**

Recherches sur  
la législation

**Hon. John Munro, Minister**

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Catalogue No. L2-7/1972

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Information Canada  
Ottawa, 1974



## FOREWORD

This publication sets out the provisions of federal and provincial labour standards laws enacted by the end of 1972 in the areas of statutory school leaving age, minimum age for employment, minimum wages, equal pay for equal work, hours of work, weekly rest-day, annual vacations, general holidays, termination of employment, and maternity protection. The standards set by labour ordinances of the Yukon and Northwest Territories are included as a separate chapter.

"Standards" as used in the title means the minimum standards required by law. These standards are set out in narrative form and in tables, where appropriate.

The publication was prepared by Mrs. Sharon Gilleen and Mr. Brien Gray, under the supervision of Miss Liis Painter.

André Bluteau  
Acting Director,  
Legislative Research Branch,  
Canada Department of Labour.

May 1973.



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## DIVISION OF LEGISLATIVE POWERS

Both the Parliament of Canada and the provincial legislatures have the power to enact labour laws. The jurisdiction of the provincial and federal governments arises from The British North America Act, Sections 91 and 92. Judicial interpretation of these sections gives provincial legislatures major jurisdiction, with federal authority limited to a narrow field.

Provincial authority is derived from the "property and civil rights" subsection of the B.N.A. Act. The right to enter into contracts is a civil right, and since labour laws impose certain restrictions on contracts between employers and employees, they fall within provincial authority as property and civil rights legislation. Provinces also have the right to legislate as to "local works and undertakings."

Federal jurisdiction in the labour law field arises from the right to regulate certain subjects expressly assigned to Parliament by Section 91 of the B.N.A. Act, or expressly excepted from provincial jurisdiction by Section 92. These subjects are of a national, international or inter-provincial nature. In addition, Parliament has jurisdiction to regulate works wholly within a province which have been declared by Parliament to be works "for the general advantage of Canada or for the advantage of two or more of the provinces," as, for example, grain elevators, feed mills and uranium mines. By virtue of its exclusive power to regulate certain works and undertakings, Parliament has the incidental power to enact labour laws relating to those works and undertakings.

The Canada Labour Code applies to:

1. Works or undertakings connecting a province with another province or country, such as railways, bus operations, trucking, pipelines, ferries, tunnels, bridges, canals, and telegraph, telephone and cable systems
2. All extra-provincial shipping and services connected with such shipping, e.g., longshoring and stevedoring
3. Air transport, aircraft and aerodromes
4. Radio and television broadcasting
5. Banks
6. Defined operations of specific works that have been declared to be for the general advantage of Canada or of two or more provinces, such as flour, feed and seed cleaning mills, feed warehouses, grain elevators, and uranium mining and processing
7. Most federal Crown corporations, e.g., the Canadian Broadcasting Corporation and the St. Lawrence Seaway Authority.



The jurisdiction of Parliament is generally limited to the above industries, with certain possible additions arising from subsequent judicial decisions.

In addition, Parliament has exclusive jurisdiction to pass laws dealing with the Yukon and Northwest Territories. Parliament has enacted legislation for local government in each territory, having power over property and civil rights and matters of a local and private nature. Accordingly, the territorial governments have virtually the same legislative powers with regard to labour laws as do the provinces.

## **STATUTORY SCHOOL-LEAVING AGE**

In all provinces there is a school attendance law which makes it compulsory for children between specified ages to attend school. Exceptions are permitted where a child is unable to attend because of illness or other unavoidable cause and, in most provinces, because of distance from school (where no conveyance is provided) or lack of school accommodation. Some Acts stipulate that a child may be excused from attendance before reaching the statutory school-leaving age if he has already attained a specified standing. An exception may also be granted in special cases, if it appears to be in the interest of the child that he should be excused from school attendance or where the child is certified to be under efficient instruction elsewhere.

In Manitoba, a child over 15 may be permitted to leave school on production of a certificate signed by his parent or guardian, the school attendance officer and the superintendent of schools or, if there is no superintendent, by the school inspector.

In 5 provinces, a child may be exempted from school attendance for a temporary period on the application of his parent or guardian, if his services are required for necessary farm or home duties or for employment. The New Brunswick Schools Act states that the Minister of Education may issue a certificate relieving a child from school attendance for a maximum period of 6 weeks in each school term, on the written application of the child's parent, if he agrees with the reasons for such application. In Prince Edward Island, the Minister of Education may certify in writing to the regional school board that a child should be exempted from school attendance. No such exemptions are provided for in Alberta, British Columbia and Ontario.

The employment of children of school age during school hours is forbidden unless a child is excused for any reason provided in the Act. The school-leaving age in each province and the provisions for exemption for employment are shown in the table.

## 1. Statutory School-leaving Ages and Work Exemptions

Province	School-leaving Age	Work Exemptions
Alberta	16	
British Columbia	15—unless course completed at nearest public school and transport to higher school not provided	
Manitoba	16—must attend to end of school term	Over 12, for not more than 4 weeks in a school year if services needed in husbandry or home duties  Over 15, with certificate signed by parent, attendance officer and superintendent of schools
New Brunswick	15—unless Grade 12 passed	For not more than 6 weeks in each school term if Minister agrees with reasons for parents' application
Newfoundland	15—must attend to end of school year	For period stated in certificate if services needed for maintenance of self or others, for not more than 2 months in a school year except with approval of Minister
Nova Scotia	16	If 12, for not more than 6 weeks in a school year if services needed for home duties or other necessary employment  If 13, with employment certificate if services needed for maintenance of self or others; medical certificate may be required
Ontario	16—unless secondary school or equivalent completed. Must attend to end of school year	
Prince Edward Island	15	If Grade 12 completed or Minister certifies exemption from school attendance
Québec	15—must attend to end of school year	For not more than 6 weeks in a school year if services needed in farming, home duties or maintenance of self or relatives
Saskatchewan	16—unless Grade 8 passed	If services needed for maintenance of self or others

## MINIMUM AGE FOR EMPLOYMENT

The Canada Labour Code, Part III (Labour Standards) and regulations do not set an absolute minimum age for employment, but lay down conditions under which young persons under 17 years may be employed in federal undertakings. A young person under 17 may be employed in a federal industry only if he is not required to be in attendance at school under the laws of his province; the work in which he is to be employed is not likely to injure his health or endanger his safety; and he is not employed underground in a mine or in work prohibited for young workers under the Explosive Regulations, the Atomic Energy Control Regulations or the Canada Shipping Act.

Employment for young workers under 17 is subject to two further conditions: an employee under 17 is not required or permitted to work between 11 p.m. and 6 a.m.; and that he is paid not less than \$1.65 an hour, unless he is undergoing on-the-job training under an approved training plan.

The Canada Shipping Act fixes a minimum age of 15 for employment at sea.

In the provincial jurisdictions, a minimum age for employment is set by mines Acts and a variety of other provincial legislation (child labour laws, the Alberta Labour Act, the Manitoba Employment Standards Act, factory or industrial safety laws and minimum wage orders).

Four provinces — British Columbia, Nova Scotia, Prince Edward Island and Newfoundland — have a child labour law, prohibiting employment below a specified age. The Newfoundland Employment of Children Act, 1968, is to go into force upon proclamation.

The British Columbia Control of Employment of Children Act forbids employment of a child under 15 in specified industries or occupations, unless a permit is obtained from the Minister of Labour. The Act applies to manufacturing, shipbuilding, electrical works, logging, construction, catering, public places of amusement, the mercantile industry, shoeshine stands, automobile service stations, road transport and the laundry, cleaning and dyeing industry.

Under the Nova Scotia Labour Standards Code, section 65-67<sup>1</sup>, employment of a child under 16 is forbidden in industrial undertakings (including mines, quarries and construction), the forest industry, garages and service stations, hotels and restaurants, operating elevators, theatres, dance halls, shooting galleries, bowling alleys and billiard and pool rooms, and in any employment prohibited by regulation. Subject to any Act or regulations, this restriction does not apply to an employer who employs members of his family. The employment of children under 14 is prohibited in work unwholesome or harmful to health or normal development, or which prejudices attendance at

<sup>1</sup> In force as of February 1, 1973

school or the child's capacity to benefit from instruction; for more than eight hours in a day; for more than three hours in a school day (except with an employment certificate); on any day for a period that, when added to school hours, totals more than eight; or at night between 10 p.m. and 6 a.m. The Nova Scotia Construction Safety Act sets a minimum age of 16 years for employment in construction.

The Prince Edward Island law (the Minimum Age of Employment Act) sets a minimum age of 15 years for employment in mining, manufacturing, shipbuilding, electrical works, construction and transport by road, rail or inland waterway.

The Newfoundland Act, which has not been proclaimed, prohibits the employment of children under the age of 16, except in family undertakings. There is provision in the Act, however, for the making of regulations by the Lieutenant Governor in Council permitting the employment of children under 16 in any specified occupation, subject to such conditions as may be prescribed.

The Act lays down the conditions under which a child under 16 may be employed by his parent or guardian in a family undertaking. He may not be employed to do any work that is or may be harmful to his health or normal development or that may prejudice his attendance at school or his capacity to benefit from school instruction. He may not work more than eight hours in a day or more than three hours on a school day. Time spent at school and at work may not total more than eight hours. Work between the hours of 9 p.m. and 8 a.m. is prohibited.

Two other provinces — Alberta and Manitoba — have fixed a minimum age for most employment in their labour codes.

In Alberta, a person under 15 may not be employed in any employment except with the written consent of the parent or guardian and the approval of the Board of Industrial Relations. As the school-leaving age is 16 and no exemptions are allowed for employment, children under 16 may work only when school is not in session.

In Manitoba, a child under 16 may not be employed in a factory. For any other employment, the minimum age is 16, unless a written permit is obtained from the Minister of Labour.

In the other provinces, a minimum age for a wide field of employment is established in factory or industrial safety laws and, in Saskatchewan, a minimum wage order.

In New Brunswick, no child under 16 may be employed in any place of employment except in a private home, unless he has written authorization from the Minister of Labour.

In Ontario, the minimum age for employment in a factory is 15 years. A child of 14 may be employed in a shop, office or office building, restaurant, bowling alley, pool room or billiard parlour if the work is not likely to endanger his safety. The Child Welfare Act provides that girls under 16 and boys under 12 must not engage in or be licensed or permitted to engage in any street-trade or occupation. Boys between 12 and 16 must not engage in such trade between 9 p.m. and 6 a.m.

The Ontario Construction Safety Act fixes a minimum age of 16 years but permits the employment of 15-year-olds in such parts of a construction project as may be designated by the regulations. No provision has been made in the regulations to date for the employment of 15-year-olds. A minimum age of 16 has been established for the logging industry.

As the school-leaving age in Ontario is 16 years and no exemptions are now permitted for employment, the above-mentioned minimum ages which are below the age of 16 apply only to such time as school is not in session. No child under 16 may be employed in any employment during school hours.

In Québec, the minimum age for employment in an industrial or commercial establishment is 16 years. The same minimum age applies to employment in hotels, restaurants, theatres and other places of amusement and to the employment by a department store or telegraph company of boys or girls as messengers. Children of 15 years of age may be employed in any of these workplaces during school vacations, but only with a permit from the inspector.

Boys and girls under 16 are forbidden to sell papers or carry on any street trade unless they can read and write fluently, and such work may not be carried on after 8 p.m.

In Saskatchewan, no person under 16 may work in a factory (which term includes dry cleaning establishments and laundries, garages and service stations, and coal, potash and sodium sulphate mines) or in a hotel, restaurant, educational institution, hospital or nursing home. Regulations may be made prohibiting the employment of young persons under 18 in factories where the work is deemed dangerous or unwholesome. Unless a permit is obtained from an inspector, the hours of work for young persons under 18 are limited to 48 in a week and night work is forbidden.

Mines Acts in all provinces but Prince Edward Island (which has no mining operations) fix the minimum age for employment in mines. In all jurisdictions females are forbidden to work in mines.

The minimum age for employment in mines, factories, shops, hotels and restaurants is set out in the table below. In most provinces, as indicated above, the legislation (apart from mines Acts) covers certain other classes of establishments in addition to those set out in the table.



## 2. Minimum Age for Employment

Province	Establishment			
	Mines	Factories	Shops	Hotels Restaurants
Alberta	17	15 except with permit <sup>1</sup>	15 except with permit <sup>1,2</sup>	15 except with permit <sup>1</sup>
British Columbia	18 below ground <sup>3</sup>	15 except with permit	15 except with permit	15 except with permit
Manitoba	16 above 18 below	16	16 except with permit	16 except with permit
New Brunswick	Coal: 16 Metal: 16 above 18 below	16 except with permit	16 except with permit	16 except with permit
Newfoundland	16 above <sup>4</sup> 18 below	16 <sup>4</sup>	16 <sup>4</sup>	16 <sup>4</sup>
Nova Scotia	Coal: 18½ below Metal: 16 above 18 below	16	—	16
Ontario	16 above 18 below	15 <sup>1</sup>	14 <sup>1,5</sup>	14 <sup>1,5</sup> (restaurants only)
Prince Edward Island	—	15	—	—
Québec	16 above 18 below	16 <sup>6,7</sup>	16 <sup>6</sup>	16 <sup>6</sup>
Saskatchewan	16 above 18 below	16	—	16

<sup>1</sup> A child under 16 may not be employed during school hours.

<sup>2</sup> Minimum age of 12 years in certain occupations, including work as clerk, delivery boy or delivery girl in retail store, with written consent of parent and subject to restrictions on hours (2 hours in a school day, 8 hours on any other day) if not injurious to life, limbs, health, education or morals.

<sup>3</sup> A boy who has reached the age of 17 may be employed underground for the purpose of training.

<sup>4</sup> Except in family undertakings. Act not yet proclaimed in force.

<sup>5</sup> A child of 14 may be employed if the work is not likely to endanger his safety.

<sup>6</sup> The Government may exempt establishments from the Act.

<sup>7</sup> For certain dangerous occupations, the minimum age is 18 for boys; for others, it is 16 for boys and 18 for girls.

## MINIMUM WAGES

Minimum wage laws are in force in the federal jurisdiction and in all ten Canadian provinces.

The Canada Labour Code (Part III, Division II) sets a minimum rate for employees 17 years of age and over in the federal industries. This rate may be increased from time to time by order of the Governor in Council. The rate for persons under 17 is established by regulation.

Employees who are paid on other than a time basis, such as pieceworkers and persons paid a mileage rate, are required to be paid the equivalent of the minimum wage.

An employer who is providing on-the-job training to increase the skill or proficiency of his employees, in accordance with conditions prescribed by the regulations, may be exempted from paying the minimum wage to such employees during the whole or part of the training period.

The Code provides also for the payment of a wage lower than the minimum rate to handicapped employees under a system of individual permits.

In Alberta, Manitoba, Nova Scotia, Ontario and Saskatchewan, minimum wage legislation is part of each province's labour code — the Alberta Labour Act, Part II; the Manitoba Employment Standards Act, Part II; the Nova Scotia Labour Standards Code, sections 48-54<sup>1</sup>; the Ontario Employment Standards Act, Part V; the Saskatchewan Labour Standards Act, Part III. The other provinces have individual minimum wage laws.

In most provinces, minimum wage boards or other labour boards are authorized by law to recommend minimum rates of wages or to establish such rates with the approval of the Lieutenant Governor in Council. In Ontario minimum rates are established by the Lieutenant Governor in Council and in British Columbia by the Board of Industrial Relations. The rates are then imposed by minimum wage orders or, in Ontario and Manitoba, by regulations under the provincial Employment Standards Act.

Except in two provinces, the Acts do not specify how the minimum wage is to be determined. In Manitoba, the board is directed to take into consideration and be guided by "the cost to an employee of purchasing the necessities of life and health." The Québec Minimum Wage Commission is directed to consider "competition from outside countries or from the other provinces and the economic conditions peculiar to the various regions of the province."

The practice is to fix a general basic wage, taking into account the cost of living, economic conditions and other relevant factors. The minimum wage rate is set mainly for the protection of the unorganized and unskilled worker.

<sup>1</sup> In force as of February 1, 1973.

It constitutes a floor above which trade unions may negotiate with management for a higher standard. The boards hold public hearings and make extensive inquiries before minimum wage orders are put into effect. Minimum wage orders are reviewed fairly frequently.

The boards are composed of members who represent the interests of employers and employees and in some cases the general public, with an impartial chairman, frequently an officer of the Department of Labour. In British Columbia at least one member of the board must be a woman, and in Nova Scotia and Saskatchewan there must be two women on the board. There is also a woman on the Alberta board, although this is not required by statute.

In most provinces, minimum wage orders now cover practically all employment. Domestic service in private homes is excluded in all provinces. Farm labour is also excluded in all provinces except Newfoundland. In Ontario and Nova Scotia this exclusion is limited to farming proper, certain farm-related occupations being covered. In Saskatchewan, minimum wage rates apply to egg hatcheries, greenhouses, nurseries and brush clearing operations, and in Alberta and Prince Edward Island to farm workers employed in commercial undertakings.

A few other classes of workers are excluded in most jurisdictions. Typical exclusions are supervisory and managerial employees, certain categories of employed students, registered apprentices, certain categories of salesmen, and members and students of professions.

Minimum rates apply throughout the province. On January 1, 1972 and July 1, 1972, Saskatchewan and Nova Scotia, abolished different rates in urban and rural zones.

Minimum wage orders apply to both men and women, and in nine provinces they set the same rate for both sexes. In Prince Edward Island, rates are lower for women than for men. However, on July 1, 1974 minimum wage rates will be the same for both sexes. Newfoundland, on April 1, 1972 and Nova Scotia on July 1, 1972 abolished the sex differential system of minimum wages.

In all provinces general orders are issued setting hourly rates that apply to most workers in the province. In 6 provinces, these general orders are supplemented by special orders, applying to a particular industry, occupation or class of workers and in some cases taking into account a special skill.

British Columbia, which originally had a separate minimum wage order for each industry or occupation, has been consolidating its orders. Twelve special orders still remain; the minimum rates set by these orders are the same as the rate set in the general order.

Québec has two industry orders, governing sawmills and forest operations. Formerly there were eight special orders. The rates set by the special order

governing sawmills are lower than the general rates; the rates under the forestry order are higher.

The other provinces set only a few special rates. Nova Scotia has established rates for employees in beauty parlors and province-wide rates for logging and forest operations and for road building and heavy construction. Special rates for construction, mining and primary transportation and for logging, forest and sawmill operations have been set in New Brunswick. Province-wide rates for construction, well-drilling, logging and lumbering, and truck drivers in Saskatchewan were abolished on January 2, 1972. A weekly rate has been set in Alberta for commercial travellers. Special rates contained within the general regulation in Ontario apply to the construction and ambulance service industries.

In 5 provinces the orders provide that inexperienced workers may be employed during a specified period at a rate below the regular minimum. These rates may be applicable generally or to a particular occupation.

Provision is also made in the legislation of almost all jurisdictions for the employment of handicapped workers at rates below the established minimum, usually under a system of individual permits.

In all provinces except Saskatchewan, the orders set special minimum rates for young workers or for young workers in certain categories, such as newsboys or messengers. Student rates are set in three provinces. In Prince Edward Island, the general minimum wage order for men excludes persons under 18.

In addition to setting minimum wage rates, minimum wage legislation usually contains other related provisions intended to protect the worker. The most prevalent of these provisions are described below.

Tipping is dealt with specifically in the Alberta, Newfoundland, New Brunswick, Nova Scotia, Ontario, Prince Edward Island, Québec and federal legislation. These provisions make it clear that gratuities are not to be counted as part of wages. Québec orders state that tips are the exclusive property of the employee, and the employer is not allowed to deduct them or to consider them as part of the wages paid, even with the employee's consent. Boards in other provinces take the position that gratuities are not to be regarded as wages.

Québec regulations state that employees who work in hotel trade establishments and who usually receive tips are entitled to the minimum hourly rate less 30 cents.

There are provisions in the orders of most provinces (and also in the federal labour Code) relating to the charges or deductions for board and lodging, where furnished by the employer to the employee.

In some jurisdictions (federal, Alberta, Newfoundland, New Brunswick, Nova Scotia, Prince Edward Island and Québec), the orders set limits on the amounts by which such charges may reduce the minimum wage. The Ontario orders fix the maximum amounts at which meals or a room or both may be valued for minimum wage purposes, where board and lodging are provided as part of wages. In the other provinces, the orders set the maximum charges or deductions that may be made.

Maximum charges or deductions are not set in British Columbia orders. If the board finds that services are inadequate or charges are excessive, it may specify the maximum charges that may be made.

Requirements are also laid down in minimum wage orders regarding the provision and maintenance of uniforms, where these are required to be worn.

Most general orders contain a "daily guarantee" or "call-in pay" provision requiring that an employee who is called to work be paid for a certain number of hours, even if he is not put to work or if he works for a shorter period. This two-, three-, or four-hour minimum period, as the case may be, must be paid for at the minimum rate, except in British Columbia, where payment is required at the employee's regular rate of pay.

### 3. General Minimum Wage Rates for Experienced Adult Workers (as of January 1, 1973)

Jurisdiction	Rates per Hour
Federal	Employees 17 and over: \$1.90
Alberta	Employees 18 and over: \$1.75
British Columbia	Employees 18 and over: \$2.00 (\$2.25 from December 3, 1973; \$2.50 from June 3, 1974)
Manitoba	Employees 18 and over: \$1.75
New Brunswick	Employees 18 and over: \$1.50 <sup>1</sup>
Newfoundland	Employees over 18: \$1.40
Nova Scotia	Employees 18 and over: \$1.55 (\$1.65 from July 1, 1973)
Ontario	\$1.65 (\$1.80 from February 1, 1973)
Prince Edward Island	Employees 18 and over: men: \$1.25 (\$1.40 from July 1, 1973) women: \$1.10 (\$1.30 from July 1, 1973) (Rate applicable to both sexes of \$1.50 on July 1, 1974)

<sup>1</sup> New Brunswick — Waitresses, waiters, doormen, bellmen and assistant bell captains, \$1.35.



Québec	Employees 18 and over: \$1.65 (\$1.70 from May 1, 1973; \$1.80 from November 1, 1973; \$1.90 from May 1, 1974; \$2.00 from November 1, 1974) <sup>2</sup>
Saskatchewan	\$1.75

<sup>2</sup> Québec — Employees of hotel trade establishments (e.g., hotels, restaurants, bars, camping grounds etc.) who usually receive tips are entitled to the general hourly rate less 30 cents an hour.

#### 4. Minimum Rates for Young Workers and Students\* (as of January 1, 1973)

Jurisdiction	Rate per Hour
Federal	Employees under 17: \$1.65
Alberta	Employees under 18: \$1.60 Students under 18 employed part-time: \$1.25
British Columbia	Employees under 18: \$1.60 (\$1.85 from December 3, 1973; \$2.10 from June 3, 1974) <sup>1</sup>
Manitoba	Employees under 18: \$1.50
New Brunswick	Employees under 18: \$1.35 <sup>2</sup>
Newfoundland	Employees 16–18: \$1.10
Nova Scotia	Employees 14–18: \$1.35 (\$1.40 from July 1, 1973) <sup>3</sup>
Ontario	Persons under 18 employed as messengers, delivery boys, newsvendors, pin setters, shoeshine boys, golf caddies, in golf pro shops, or in municipal public libraries: \$1.25 <sup>4</sup>  Students employed 28 hours or less in a week or during school holidays: \$1.30 (\$1.45 from February 1, 1973) <sup>5</sup>

\*Saskatchewan has no special rates for young workers or students.

<sup>1</sup> British Columbia — Does not apply to bus operators, resident caretakers, or taxicab drivers.

<sup>2</sup> New Brunswick — Does not apply in construction, mining, primary transportation, logging or forest and sawmill operations.

<sup>3</sup> Nova Scotia — Except with approval of Minimum Wage Board, no more than 25% of employer's total workforce may be underage employees (14–18). In a hotel, restaurant, motel or tourist resort during the period June 15 – September 15, up to 60% of employees may be underage workers. These rates do not apply in beauty parlours, logging and sawmill operations or road building and heavy construction.

<sup>4</sup> Ontario — As of February 1, 1973 these categories of employees will be abolished.

<sup>5</sup> Ontario — Student rates do not apply to the ambulance or construction industries. As of February 1, 1973 these rates are applicable to students under 18 years of age employed 28 hours or less in a week or during school holidays.

Jurisdiction	Rate per Hour
Prince Edward Island	<p>Employees under 18: \$1.00, female (applicable to both sexes, \$1.20 from July 1, 1973; \$1.40 from July 1, 1974)</p> <p>Students:</p> <p>Male students working minimum of 28 hours a week or full-time during period from May 15 to September 15 or during Easter or Christmas vacations: \$1.00 an hour</p> <p>Female students employed between May 15 and September 15 for a minimum of 24 hours a week: \$1.00 an hour<sup>6</sup></p>
Québec	<p>Employees under 18: \$1.55 (\$1.60 from May 1, 1973; \$1.70 from November 1, 1973; \$1.80 from May 1, 1974; \$1.90 from November 1, 1974)<sup>7</sup></p>

<sup>6</sup> Prince Edward Island — Student rates to be abolished July 1, 1973.

<sup>7</sup> Québec — Rate of \$1.25 for sawmill workers under 18 set by ordinance governing saw-mills.

## 5. Minimum Rates and Learning Periods for Inexperienced Workers\*

Jurisdiction	Hourly Rates and Learning Periods
Manitoba	<p>Employees 18 and over:</p> <p>during first 3 months of employment: \$1.60;</p> <p>during second 3 months: \$1.70</p>
Nova Scotia	<p>During first 3 months of employment: \$1.35 (\$1.40 from July 1, 1973)<sup>1</sup></p>
Ontario	<p>During first month of employment: \$1.55<sup>2</sup> (\$1.70 from February 1, 1973)</p>
Prince Edward Island	<p>During probationary period of 30 days: \$1.20 men<sup>3</sup></p>

\*No provision for lower rates for learners in federal jurisdiction, British Columbia, New Brunswick, Newfoundland, Québec, or Saskatchewan. In Alberta a learner's rate is set only for female workers in the garment industry. In addition to the general rate for experienced workers, Nova Scotia has a learners' rate for beauty parlours.

<sup>1</sup> Nova Scotia — Inexperienced employees are persons with less than 3 months experience in the work for which they are employed. Without the express approval of the Minimum Wage Board, the number of underage or inexperienced employees employed by the employer may not exceed 25% of his total working force. However, in the case of an employer operating a motel, hotel, restaurant or tourist resort from June 15 to September 15, up to 60% of the persons employed may be underage or inexperienced employees during this period.

<sup>2</sup> Ontario — Not more than 20% of total number of employees in an establishment may be employed as learners, and only persons who have no previous experience in the work may be paid learners' rates.

<sup>3</sup> Prince Edward Island — As of July 1, 1973, learners' rates will be abolished.

**6. Maximum Permitted Charges for Board and Lodging\***  
(as of January 1, 1973)

Jurisdiction	Meals		Lodging		Board and Lodging
	single	per week	per day	per week	per week
Federal	50¢		60¢		
Alberta	50¢	\$9 for 21 meals in 7-day week \$8 for 18 meals in 6-day week	65¢ for period less than week	\$4.50 for full 7-day week	
Manitoba	50¢			\$5.00	
New Brunswick <sup>1</sup>	75¢				\$2.25 per day
Newfoundland	40¢	\$7.00		\$3.00	\$10.00
Nova Scotia <sup>2</sup>	45¢	\$8.00		\$4.00	\$12.00
Ontario <sup>3</sup>	65¢	\$13.50		\$6.50	\$20.00
Prince Edward Island <sup>4</sup>	40¢	\$7.00		\$3.00	\$10.00
Québec <sup>5</sup>	75¢			\$6.00	\$21.00
Saskatchewan <sup>6</sup>	60¢ or \$1.80 per day			.60¢	

\*No maximum charges set in British Columbia.

<sup>1</sup> New Brunswick — Applies to construction, mining, primary transportation and logging and sawmill operations only.

<sup>2</sup> Nova Scotia — Logging and forest operations: board and lodging, \$2.40 per day; construction: no charges set.

<sup>3</sup> Ontario — Effective February 1, 1973; meals, 75¢ a meal or \$15 a week; lodging, \$7 a week; board and lodging \$22.

<sup>4</sup> Prince Edward Island — Effective July 1, 1973; meals, 45¢ or \$8 a week; lodging \$4 a week; board and lodging \$12 a week; Effective July 1, 1974; meals, 50¢ a meal or \$10 a week; lodging \$5 a week; board and lodging \$15 a week;

<sup>5</sup> Québec — Sawmill and forest operations: single meal 65¢; board and lodging, \$1.95 per day.

<sup>6</sup> Saskatchewan — Applies to hotels and restaurants and employees earning \$75 or less a week in educational institutions, hospitals and nursing homes only. Logging and lumbering: board and lodging \$2.50 per day.

## EQUAL PAY

The Parliament of Canada and all provinces but Québec have enacted laws which require equal pay for equal work without discrimination on the grounds of sex.

The Québec fair employment practices law forbids discrimination in employment on the basis of sex, thus prohibiting, among other things, discrimination in rates of pay solely on the grounds of sex. Similar prohibitions against discrimination in employment are contained in Alberta, British Columbia, Manitoba, New Brunswick, Newfoundland and Ontario human rights legislation.

In four jurisdictions equal pay provisions are contained in the labour code — the Canada Labour Code, Part III, Division II.1; the Ontario Employment Standards Act, Part V; the Saskatchewan Labour Standards Act, Part V; and the Nova Scotia Labour Standards Code (sections 55-57)<sup>1</sup>. In four other provinces equal pay provisions form part of human rights legislation — the Alberta Individual's Rights Protection Act, the British Columbia Human Rights Act and the Newfoundland and Prince Edward Island Human Rights Codes. Manitoba and New Brunswick have separate equal pay Acts.

The Newfoundland and New Brunswick legislation forbids an employer to pay a female employee at a rate of pay less than the rate paid to a male employee for **the same work done in the same establishment**.

The Prince Edward Island Act states that an employer may not pay a female employee at a rate of pay less than the rate paid to a male employee for **substantially the same work done in the same establishment**. The British Columbia Act refers to the **same work or substantially the same work done in the same establishment**.

In Saskatchewan, an employer is forbidden to pay a female employee at a rate of pay less than the rate paid to a male employee for **work of comparable character done in the same establishment**.

The Alberta Act forbids an employer to employ a female employee for any work at a rate of pay that is less than the rate of pay at which a male employee is employed by that employer for **similar or substantially similar work**. The work is deemed to be similar or substantially similar if the job, duties or services the employees are called upon to perform are similar or substantially similar. Reduction of an employee's rate of pay in order to comply with the legislation is prohibited.

The federal, Ontario and Manitoba provisions protect persons of either sex against discrimination in the payment of wage rates. These provinces, and also Nova Scotia, lay down criteria for determining whether the work performed is the same.

<sup>1</sup> In force as of February 1, 1973.

In the federal jurisdiction, an employer is forbidden to establish or maintain differences in wages between male and female employees employed in the **same industrial establishment, who are performing, under the same or similar working conditions, the same or similar work on jobs requiring the same or similar skill, effort and responsibility.**

In Ontario and Nova Scotia, the employer is prohibited from paying a female employee at a lesser rate of pay than that paid to a male employee, (or vice versa in Ontario) for the **same work performed in the same establishment, the performance of which requires equal skill, effort and responsibility, and which is performed under similar working conditions.**

In both the federal and Ontario jurisdictions the employer is forbidden to reduce the rate of pay of an employee in order to comply with the equal pay requirement. Further, in Ontario, employee or employer organizations may not cause or attempt to cause an employer to pay wages that contravene the equal pay provisions of the Act.

In Manitoba an employer is forbidden to pay the employees of one sex wages on a scale different from that on which wages are paid to employees of the other sex **in the same establishment, if the work required of, and done by, employees of each sex is the same or substantially the same.** By way of clarification, the Act states that the work of male and female employees is to be deemed the same or substantially the same if the job, duties, responsibilities, or services that the employees are called upon to perform are the same or substantially the same in kind or quality and substantially equal in amount.

All the Acts make it clear that a difference in rates of pay based on a factor other than sex does not constitute failure to comply with their requirements. In Nova Scotia, however, the employer must establish that such a factor justifies a different rate of pay.

The Ontario Act contains three specific exceptions in addition to the general exception permitting a differential based on any factor other than sex. Differences in rates of pay based on a seniority system, a merit system, or a system that measures earnings by quantity or quality of production do not constitute discrimination within the terms of the Act.

In all provinces, except British Columbia, equal pay legislation is applicable to provincial government employees. The federal Act covers employees of Crown corporations but does not apply to other federal public servants. Rates of pay of classified public servants are set by classification, according to the type of work performed, without any distinction based on sex.

The procedure laid down for the enforcement of equal pay provisions may be invoked upon complaint by the aggrieved person in British Columbia, New Brunswick, Newfoundland and Prince Edward Island.

In Alberta and Manitoba, investigation may be initiated upon complaint by



the aggrieved person or upon the initiative of the director appointed under the Act. In addition, in Manitoba any person may file a complaint on behalf of the aggrieved person. The Saskatchewan Act does not specify the person who may make a complaint.

In the federal, Ontario and Nova Scotia jurisdictions enforcement no longer depends solely on a formal complaint. The equal pay provisions are enforced through inspection by the field staff of the respective Departments of Labour.

A complaint is to be registered in Newfoundland, New Brunswick and Prince Edward Island with the Minister of Labour; and in British Columbia, Manitoba and Saskatchewan with a designated officer of the Department of Labour (the director). In Alberta, complaints are made to the Human Rights Commission. The Alberta and British Columbia legislation impose a 6-month time limit for making a complaint.

In all jurisdictions, except Ontario, Nova Scotia and the federal industries, the legislation provides for an initial informal investigation into a complaint, usually by an officer of the Department of Labour. In Alberta, such an investigation is made by the Human Rights Commission.

In Newfoundland and New Brunswick, if the person designated to make the inquiry is unable to settle the matter, a board or commission of one or more persons may be appointed. In Newfoundland the commission is called the Human Rights Commission. (In Newfoundland, the Minister may, in addition, appoint a commission when he deems it desirable to have an inquiry made into any matter within the purview of the Act.)

In Alberta, the Human Rights Commission will refer a complaint that is not settled under the initial investigation to a Board of Inquiry (appointed by the Commission) to investigate the matter. In British Columbia and Saskatchewan, the director may refer the matter to the Human Rights Commission, a permanent body established under the Act. In Alberta and British Columbia, the Commission may dismiss a complaint at any stage of proceedings if it is of the opinion that it is without merit. Under the Manitoba Act, the second stage of the procedure is the appointment of a referee, who may or may not be an officer of the Department of Labour. In Prince Edward Island, the Minister must inquire into the matter if it is not settled at the earlier stage.

The board, commission, *ad hoc* committee, referee or Minister is given full powers to conduct a formal inquiry. All the Acts provide that the parties to the complaint must be given an opportunity to present evidence and to make representations.

The recommendations of the board, commission, committee or referee, as the case may be, may be put into effect by an order of the Minister of Labour except under the Alberta and British Columbia Acts. Under the Alberta Act, if the Commission is unable to effect a settlement on the course of action to

be taken with the person against whom the finding was made, the Commission must deliver all material pertaining to the complaint to the Attorney General who may apply to the Supreme Court for an order. In British Columbia, the Human Rights Commission must issue an order if it finds that there has been a contravention of the Act. In Prince Edward Island, if the Minister finds the complaint to be justified, he must direct the course of action that ought to be taken and may issue an order to carry out the course of action into effect. Under all the Acts, compliance with the order is required.

In Newfoundland, the order of the Minister may be appealed to the Supreme Court. An appeal of a decision made by the Saskatchewan Human Rights Commission may be made to a judge of the Court of Queen's Bench. In British Columbia, an order of the Human Rights Commission may be enforced by filing it in the Supreme Court of the province.

The British Columbia Human Rights Commission may direct the person whom it has found to be in contravention of the Act to cease or rectify the contravention. It may also include in its order a direction to pay the wages lost as a result of the contravention. The order of the referee under the federal Act may direct the payment of wages owing for a period of up to 6 months preceding the date of complaint. In Alberta the judge may order compensation for the person discriminated against for all or any part of any wages or income lost or expenses incurred by reason of the discriminatory action.

In Ontario, the Director of Employment Standards (who, under the direction of the Minister of Labour, administers the Employment Standards Act) has authority to determine the amount of wages owing to an employee, where in his opinion an employer has contravened the equal pay provisions. The employer must be given a chance to be heard. For purposes of enforcement of the Act, this amount is to be deemed unpaid wages.

Where the Director cannot determine the amount owing, the Minister may, on his recommendation, appoint a board of inquiry. The board is required to hear the parties and to recommend to the Director the course of action that ought to be followed.

Under the wage collection procedure of the Employment Standards Act, the Director is empowered to collect unpaid wages for an employee up to a maximum of \$2,000 and the employer is subject to a penalty of 10 per cent of the amount owing. An employer who has paid the wages and penalty as required, has the right to apply to the Minister for a review, whereupon a person designated by the Minister is required to hold a hearing, giving the employer full opportunity to make submissions, and to decide the amount owing to the employee. If the employer is dissatisfied with the Minister's decision, he may appeal the decision to the Supreme Court on the grounds that it is erroneous in point of law or in excess of jurisdiction.

The legislation in Nova Scotia is similar to that in Ontario. Where the Director of Labour Standards finds that an employer has not paid equal

wages, he may direct the employer to pay the amount due to the employee to the Labour Standards Tribunal. If he disputes the direction, the employer may apply to the Tribunal for a determination of the amount. If the Tribunal finds the employer is indebted to the employee, it must order the employer immediately to pay over to the Tribunal the amount of pay found to be unpaid. The person to whom the order is directed must forthwith comply with the order.

Provision is made in all the Acts for prosecution in the Courts as a last resort. Failure to comply with the Act or an order is made an offence punishable by a fine. In Newfoundland, Ontario and Saskatchewan, the convicting magistrate must order the payment of wages due, in addition to imposing a fine. Under the federal Act, an employer convicted of an offence under the Act may, in addition to any other penalty, be made liable for payment of wages found to be due.

Each of the Acts, except the Acts of British Columbia and New Brunswick, make it an offence for an employer to dismiss or otherwise discriminate against an employee because he has made a complaint or given evidence under the Act.

A number of the laws provide that a person claiming to be aggrieved by an alleged contravention of the Act has a choice of initiating court proceedings or of making a complaint. Some Acts stipulate that the right of an employee to take any other proceeding for recovery of wages to which he is entitled is not barred by reason of any remedy provided for in the Act.

## **HOURS OF WORK**

### **FEDERAL**

Hours of work of employees in undertakings within the federal labour jurisdiction are regulated by the Canada Labour Code, Part III, Division I.

The Code sets a standards workday and workweek and requires payment of an overtime rate for work done beyond the hours specified. It also establishes a maximum workweek, overtime hours being restricted to 8 in a week, except in special circumstances.

Under the Code, standard hours (the number of hours that may be worked at regular rates of pay) are limited to 8 in a day and 40 in a week. Hours in excess of 8 and 40 may be worked, however, provided one and one-half times the regular rate is paid, up to a maximum of 48 hours in a week.

In a week in which an employee is entitled to a general holiday with pay (under Part III, Division IV of the Code) the overtime rate is to be paid after 32 hours, instead of 40. In calculating overtime for the week, no account is to be taken of any time worked on the holiday.

Because some types of employment may call for a more flexible arrangement of working hours, the Code permits the averaging of hours over a period of two or more weeks. Under a system of averaging, working hours may vary from day to day or from week to week so long as the total standard hours do not exceed 40 multiplied by the number of weeks in the averaging period. The overtime rate (one and one-half times the regular rate) must be paid at the end of the averaging period for all hours worked in excess of such standard hours. The total number of hours that may be worked by an employee in an averaging period is the product of the number of weeks in the period multiplied by 48.

Averaging is permitted for any class of employees who have no regularly scheduled working hours or who have regular hours but the number of hours scheduled differs from time to time. On notification to the Department of Labour, an employer may select an averaging period of 13 weeks or less.

If an employer requires a longer period for averaging than 13 weeks in order to provide for a period in which fluctuations take place (e.g., where there are seasonal rush and slack periods during the year), he must obtain the approval of the Minister of Labour. The same conditions apply as to a period of 13 weeks or less. The period over which hours may be averaged may be as long as a full year.

An employer who has adopted an averaging plan is required to post clear information about the plan in places where it can readily be seen by the employees affected.

When an employee terminates his employment of his own accord during an averaging period, he is not entitled to overtime pay. If this employment is terminated by the employer, however, he must be paid overtime pay for any hours worked in excess of an average 40-hour week over the period he has worked.

Exceptions from the maximum workweek are permitted in certain circumstances. Work in excess of 48 hours in a week (or the maximum hours established in an averaging period) may be allowed under permit, when the Minister, having given due regard to the conditions of employment and the welfare of the employees, is satisfied that such exceptional conditions exist as to make the working of additional hours necessary.

A permit is issued for a definite period of no longer duration than the time the exceptional circumstances are expected to continue. The permit may specify either the total amount of excess overtime that may be worked in the period or the additional number of hours per day or per week that the employees may work. The number of employees engaged in such excess overtime and the extent of the overtime worked by each must be reported in writing to the Minister within 15 days after the overtime permit expires or within a time fixed in the permit.



Maximum weekly hours may also be exceeded to make up for the time lost due to an accident, breakdown in machinery or other emergency. The employer is required to report such emergency work within a specified time.

In order to deal with the special problems of some industries, regulations may be made, after public inquiry, varying the standard and maximum hours for classes of employees in any specified establishment where the Code provisions would be unduly prejudicial to the interests of the employees or seriously detrimental to the operation of the establishment, or entirely exempting a class of employees from the hours provisions where they cannot reasonably be applied. Two regulations (the Motor Vehicle Operators Hours of Work and the Motor Vehicle Operators Hours of Service Regulations) issued under the Canada Labour Code establish standard hours of work and maximum hours of service for employees in the inter-provincial transport of goods and passengers or the transport of mail anywhere in Canada. In addition, a new regulation sets maximum hours of work for West Coast shipping employees.

Regulations may also be made specifying the circumstances under which the overtime rate will not apply because work practices make it unreasonable or inequitable. A general regulation issued under the Canada Labour Code provides for exemption from the standard hours of work and overtime provisions in circumstances where there is an established work practice that requires or permits an employee to work in excess of standard hours for the purpose of changing shifts or permits an employee to exercise seniority rights to work in excess of standard hours pursuant to a collective agreement.

Different hours of work provisions have been established temporarily under the former deferment provisions of the Code for some industries, including shipping on the St. Lawrence River, the East Coast and Newfoundland.

## **PROVINCIAL**

### **General Hours of Work Laws**

Five provinces have Acts of general application regulating working hours (the British Columbia Hours of Work Act; the Alberta Labour Act, Part I; the Manitoba Employment Standards Act, Part III, the Ontario Employment Standards Act, Part III; and the Saskatchewan Labour Standards Act, Part II).

The Acts of British Columbia, Ontario and Alberta set a maximum number of hours per day and per week beyond which an employee must not work. Hours are limited in British Columbia to 8 in a day and 44 in a week and in Ontario to 8 in a day and 48 in a week.

The Alberta Act establishes standard and maximum hours of work. Standard hours must not exceed 9 in a day and 44 in a week. Maximum hours are limited to 8 in a day and 44 in a six-day week. The weekly hours of work



may be varied to provide for an average of 44 per week in each consecutive four-week period, provided that the total number in any one week does not exceed 48 hours.

All three laws provide for exceptions in certain circumstances. Exceptions are authorized in orders or regulations or through the issuing of a permit. In both Alberta and British Columbia, the administrative board has authority not only to permit working hours to exceed statutory limits but also to fix the minimum wage payable for overtime. In both provinces the board has made special orders for a considerable number of industries, permitting variations from the daily and weekly hours specified in the Act for exempting workers entirely from hours limitations.

In Ontario, the Director of Employment Standards may, by permit, authorize hours of work in an establishment in excess of 8 and 48, subject to specific limits laid down in the Act. The limit for overtime is 12 hours in a week for an engineer, fireman, full-time maintenance man, receiver, shipper, delivery truck driver or his helper, watchman, or any other person who, in the opinion of the Director, is engaged in a similar occupation. For most other employees the limit for excess hours is 100 hours in each year for each employee.

The Director may also issue a permit authorizing working hours in excess of the overtime limits set out above, if he is satisfied that the nature of the work or the perishable nature of the raw material being processed requires the excess hours.

In no case may a girl under the age of 18 work more than 6 hours overtime in a week.

Subject to certain exceptions set out in the regulations, one and one-half times the regular rate must be paid for work done, under permit, beyond 48 hours in a week. The employee's regular rate of pay must not be reduced in complying with this requirement.

Taxi drivers, and ambulance drivers and their helpers are not entitled to overtime pay. In certain industries — highway transport, local cartage, road building, sewer and watermain construction, the hotel, motel, tourist resort, restaurant and tavern industry (seasonal employees) and fruit and vegetable processing (seasonal employees) — extended hours, 50, 55 or 60, as the case may be, may be worked before the overtime rate applies.

The Manitoba and Saskatchewan Acts set standard hours as opposed to maximum hours. They do not limit the hours which may be worked in a day or in a week but require the payment of time and one-half the regular rate after 8 hours in a day and 40 hours in a week in Saskatchewan and 8 hours in a day and 44 hours in a week in Manitoba. To prevent the working of excessively long hours, the Saskatchewan Act empowers the Lieutenant Governor in Council to limit daily hours in any occupation to 12, except in special circumstances or when permission to work longer hours has been obtained from the Minister of Labour.

The Manitoba and Saskatchewan laws also provide for exceptions. The Manitoba law permits working hours to be varied in certain circumstances without payment of the overtime rates. The Manitoba Labour Board must review once a year any orders it makes under this authority. In Saskatchewan, regulations permit hours to be averaged over a specified period, thus allowing some variation from week to week. Certain classes of employees have been entirely exempted from the Act, with the result that these classes have no entitlement to overtime pay.

Under all the Acts, there is provision for working daily hours in excess of 8 in order to establish a compressed work week, so long as weekly hours are not exceeded. There is also provision, except in Saskatchewan, for hours to be exceeded in emergencies.

The standards set under hours of work laws and the application of each Act in general terms are set out in Table 7.

In Nova Scotia the provisions of the former Limitation of Hours of Labour Act are incorporated in the new Code. The Minimum Wage Board is empowered, after investigation and subject to the approval of the Lieutenant Governor in Council, to issue orders determining the daily or weekly hours of work for persons employed in industrial undertakings. The number of hours of work per day and/or per week may be varied in certain cases. The hours per day may vary provided that the total hours per week do not exceed the standard set by the Board. In addition, the hours of work may be exceeded in case of accident, urgent work, or force majeure, but only so far as may be necessary to avoid serious interference with the ordinary working of the undertaking. The hours of work limit may also be exceeded where shift work is required.

### **Other Legislation Restricting Hours**

Apart from general hours of work laws, other statutes regulate working hours in some industries.

Schedules under industrial standards legislation in seven provinces and decrees under the Québec Collective Agreement Decrees Act and the Construction Industry Labour Relations Act regulate hours in construction and other industries. Schedules and decrees apply to designated zones; a number apply throughout the province.

Generally speaking, standard weekly hours for the construction industry range from 40 to 48, with a 40-hour week being the usual standard in the larger centres. In Québec, a 40-hour week is set for tradesmen, a 42½-hour week for labourers and a 50-hour week for road building.

In another industry regulated by schedules and decrees in Ontario and Québec, the garment industry, standard weekly hours are usually 37½ or 40. In a few branches of the industry in Québec, standard hours have been reduced to 35.

In Manitoba, maximum hours which may be worked at regular rates are set under the Construction Industry Wages Act, which applies to both private and public construction work. At the present time a 40-hour week is in effect for most classifications of construction work in the Greater Winnipeg area, and a 44-hour week in the rest of the province. In the heavy construction industry, the maximum hours of work payable at regular rates are 60 except in Metropolitan Winnipeg during the period from November 1 to April 30, when a 48-hour week is in effect.

Working hours of women and young persons are restricted by the New Brunswick Minimum Employment Standards Act and by factory legislation in two other provinces. Under the New Brunswick Minimum Employment Standards Act, which is applicable to any place of employment other than a private home or farm, hours of women and boys under 18 years are limited to 9 in a day and 48 in a week, unless special permission to work longer hours is obtained from the Minister of Labour. Québec factory law restricts hours of women and boys under 18 to 9 in a day and 50 in a week in factories and to 54 hours in a week in commercial establishments. In Saskatchewan, women and boys under 18 employed in factories are prohibited from working more than 48 hours in a week.

In Newfoundland, the Hours of Work Act limits working hours of shop employees anywhere in the province to 8 in a day and 40 in a week, unless one and one-half times the regular rate is paid.

In all provinces except Manitoba, Ontario and Saskatchewan, there is also some indirect regulation of hours by virtue of provisions in minimum wage orders requiring the payment of an overtime rate after a specified number of hours of work.

Effective December 4, 1972, a general minimum wage order was issued in British Columbia. This order now encompasses a number of special groups formerly governed by separate orders. The order covers the auto repair and gasoline service station industry; barbers and hairdressers; the construction industry; electronic technicians; outside employees in irrigation districts; the logging, sawmill, woodworking and Christmas tree industries; the trades of machinists, moulders, refrigeration and sheet metal; patrolmen; pipeline construction; ship and boat building; and stationary engineers.

The standard workweek under the general order is 40 in a week and 8 in a day. Payment of time and one-half the regular rate is required after 40 hours in a week and in excess of 8 in a day. Employees working under a written permit from the Board of Industrial Relations or pursuant to an agreement confirmed by the Board with respect to hours of work must be paid time and one-half the employee's regular rate of pay for all hours worked in excess of a weekly average of 40 over the averaging period, excluding hours worked in excess of 8 in any one day.

In Saskatchewan, the Minimum Wage Board has no authority to fix overtime rates. All overtime pay requirements are laid down in the Labour

Standards Act and orders under it. In Manitoba, overtime pay requirements are contained in Part III of the Employment Standards Act and regulations. In Ontario, overtime pay is required under the Employment Standards Act and regulations.

A minimum wage order of considerable significance with regard to working hours because of its wide coverage is the new General Minimum Wage Order 4 in Québec. Order 4 is a blanket order applying to all employees in the province except those covered by decrees, workers governed by special minimum wage orders, farm workers, domestic servants, and a few other minor groups. The minimum rates set by Order 4 apply to a standard workweek of 45 hours, after which an overtime rate of one and one-half times the minimum rate must be paid. A few classes of employees are excluded from these overtime provisions (e.g., hotel trade).

### **Night Work for Women**

In Québec, under the Industrial and Commercial Establishments Act, women are permitted to work on the night shift under certain conditions.

The Act authorizes the Minister of Labour to grant a permit allowing women 18 and over to work on a third shift in an industrial establishment, if he is satisfied that the nature of production, market conditions and other special circumstances require it. Before ruling on an application for a permit, the Minister must request the opinion of the certified trade union.

Hours of work on the third shift may not exceed 8, and work must not begin before 11 p.m. or after midnight. A lunch break of at least 30 minutes must be allowed around the middle of the shift, and two rest periods of 10 minutes each must be granted in the intervals before and after the refreshment period. Wage rates for the night shift must not be less than those for the two other shifts, and if premium pay is given for night work, it must be paid to the women employees on the shift.

The employer must ensure the safety of women who leave work before 7 a.m. by providing them with convenient and safe transportation to their homes at his expense.

Regulations made under the Act lay down further conditions. At least one female supervisor, nurse or first aid attendant must be present on the night shift, and there must be at least two women besides the female supervisor in each workroom or workshop. A permit may not be issued for a period longer than a year. It may be revoked without notice for breach of any of the conditions under which it was issued.

In Ontario, no girl under 18 may work in an establishment between midnight and 6 a.m. If the work period of a female employee of 18 or over begins or ends between midnight and 6 a.m. her employer must provide her



with private transportation at his expense from her residence to the place of work or from the workplace to her home.

An order under the Alberta Labour Act prohibits the employment of women on shifts which begin or end between midnight and 6 a.m. unless the employer provides free transportation for the employee to or from her place of residence. Any period during which the employee is required to wait on the employer's premises for transportation to her place of residence is to be deemed working hours.

Manitoba minimum wage regulations contain a similar provision, requiring employers to provide women employees whose work begins or ends between midnight and 6 a.m. with adequate transportation, without cost to the employee, between the place of residence and the place of employment.

In Saskatchewan, women employees in hotels, restaurants, educational institutions, hospitals and nursing homes who are required or permitted to finish work between 12:30 a.m. and 7 a.m. must be provided by the employer with free transportation to their homes. Night work for women is prohibited in factories, except with a permit from an inspector.

## 7. General Hours of Work Laws

Jurisdiction	Standards Set	Application
Federal	Standard hours: 8, 40 after which 1 1/2 times the regular rate  Maximum hours: 48	Federal industries Exclusions: managers, super- intendents and professional employees Exceptions <sup>1</sup>
Alberta	Standard hours: 9, 44 after which 1 1/2 times the regular rate  Maximum hours: 8, 44	Most employment Exclusions: managerial and confidential employees, farm labour and domestic service Exceptions <sup>1</sup>
British Columbia	Maximum hours: 8, 44 Overtime at 1 1/2 times the regular rate in excess of 40 in a week and 8 in a day	Industries in Schedule (e.g., manufacturing, mercantile, catering, construction, mining barbering, elevator operators, hotel clerks, truck drivers, bus operators) Exclusions: managerial and confidential employees Exceptions <sup>1</sup>
Ontario	Maximum hours: 8, 48	Most employment Exclusions: supervisory and managerial employees, pro- fessional employees, farm workers, domestic servants, construction, commercial fishermen, resident janitors



		or caretakers, and a few other classes of employees Exceptions <sup>1</sup>
Manitoba	Standard hours: 8, 44 after which 1 1/2 times the regular rate	Most employment Exclusions: professional employees, farming, domestic service, fishing and construction
Saskatchewan	Standard hours: 8, 40 after which 1 1/2 times the regular rate	Most employment Exclusions: northern area of province, managerial employees, farm workers, domestic servants, certain professions, commercial travellers, logging, road con- struction, and a few other classes of employees Exceptions <sup>1</sup>

<sup>1</sup> Different standards set by regulation for some industries.

## 8. Overtime Rates

Jurisdiction	Overtime Rates
Federal	1 1/2 times the regular rate after 8 or 40 hours
Alberta	1 1/2 times the regular rate after 9 or 44 hours
British Columbia	1 1/2 times the regular rate after 8 or 40 hours*
Manitoba	1 1/2 times the regular rate after 8 or 44 hours
New Brunswick	1 1/2 times the minimum rate after 48 hours*
Newfoundland	1 1/2 times the minimum rate after 48 hours <sup>1</sup> *
Nova Scotia	1 1/2 times the minimum rate after 48 hours <sup>2</sup> *
Ontario	1 1/2 times the regular rate after 48 hours <sup>3</sup>

\*Set by minimum wage orders.

<sup>1</sup> Newfoundland — Not applicable to farm workers. Shop employees governed by Hours of Work Act, 1 1/2 times the regular rate after 8 or 40 hours.

<sup>2</sup> Nova Scotia — Road building and heavy construction, and employees in transport industry required to be away from home base overnight, 1 1/2 times minimum rate after 96 hours in two weeks.

<sup>3</sup> Ontario — Highway transport, 1 1/2 times regular rate after 60 hours; local cartage, 1 1/2 times regular rate after 55 hours; road building, 1 1/2 times regular rate after 50 or 55 hours, depending on class of work; watermain construction, 1 1/2 times regular rate after 50 hours; seasonal employees not working more than 16 weeks in a year in fruit and vegetable processing industry and in hotel, motel, tourist resort, restaurant and tavern industry (in latter case, if provided with room and board), 1 1/2 times regular rate after 55 hours.

Prince Edward Island	1 1/2 times the minimum rate after 48 hours <sup>4</sup> *
Québec	1 1/2 times the minimum rate after 45 hours <sup>5</sup> *
Saskatchewan	1 1/2 times the regular rate after 8 or 40 hours

<sup>4</sup> Prince Edward Island — Seasonal food processing, 1 1/2 times minimum rate after 60 hours; road building; 1 1/2 times minimum rate after 96 hours in two weeks; women in restaurant and tourist resort industries June 15-September 15 are not entitled to overtime pay.

<sup>5</sup> Québec — Employees in fishing or fish processing, watchmen and employees engaged in fruit and vegetable picking and processing during the harvest season are not entitled to overtime pay; forest operations, 1 1/2 times the minimum rate after 48 hours; sawmills, 1 1/2 times the minimum rate after 50 hours.

## WEEKLY REST-DAY

The Canada Labour Code (Section 31) provides that employees must be given at least one full day of rest in the week, on Sunday, wherever possible.

Two exceptions from this general rule are provided for in the regulations. A weekly rest-day does not need to be granted where working hours are averaged over a specific period.

Where working hours in excess of 48 in a week are allowed under a permit from the Minister of Labour, the Minister may specify in the permit that a weekly rest need not be scheduled, as required by the Code, and may prescribe alternative periods of rest.

Six provinces — Alberta, British Columbia, Manitoba, New Brunswick, Québec and Saskatchewan — provide for a weekly rest-day but the provisions vary in scope. These provisions are applicable to most employees within each jurisdiction whereas the weekly rest-day provisions in Newfoundland, Nova Scotia and Ontario are restricted to a few groups of employees.

The Alberta Labour Act requires all employed persons except farm workers and domestic servants to be given a day of rest in each consecutive period of seven days, unless the Board of Industrial Relations orders that the hours of rest be allowed in two periods or that a longer period than 24 hours be granted. The Act enables the Board to make special provisions for days of rest in industries which ordinarily operate at least one shift on each day of the week, and permits a consecutive rest period to be granted every four weeks or in relation to some other work period which the Board considers proper. The Board has made special provision for accumulated days of rest in the highway construction, geophysical exploration, land surveying, brush clearing, oil well service and pipeline construction industries, for employees of rural municipalities engaged in road work, and for cooks, night watchmen, etc., in lumber camps.

The general order under the British Columbia Minimum Wage Act provides for a rest period of 32 consecutive hours weekly. This order applies to most employees not covered by special orders. The orders governing the logging, sawmill, woodworking and Christmas tree industries, shipbuilding, first aid attendants, patrolmen employed by private agencies, taxicab drivers, resident caretakers and funeral parlours also require a 32-hour rest period to be granted. Different arrangements may be made on application of the employer and employees concerned, if the Board of Industrial Relations approves.

In Manitoba, the Employment Standards Act provides that a weekly day of rest, if possible Sunday, must be granted to most employees. Exempted are farm workers; watchmen, janitors and firemen living in the building in which they are employed; managers and supervisory employees; repair workers in emergencies; and persons employed for not more than three hours on a weekly rest-day merely for the purpose of looking after horses as part of their usual duty. The Minister of Labour is given discretion to exempt a particular undertaking from the application of weekly rest provisions for a fixed period or indefinitely. Where a plant is exempted, each employee must be given an additional holiday without pay for each weekly day of rest to which he would have been entitled except for the permit of exemption, and the holidays may be accumulated.

Under the Newfoundland Weekly Day of Rest Act, an employer is required to grant his employees a weekly rest period of at least 24 consecutive hours, wherever possible on Sunday. The requirement does not apply to employees engaged in emergency work, or to persons employed solely in senior managerial capacities, as defined by regulation. The latter group has been defined to include managers, superintendents, supervisory personnel who themselves are not supervised, and members of specified professions.

Any employer or class of employers may be exempted by regulations, subject to such conditions as may be prescribed. Currently excluded are employers operating in remote areas whose employees live in bunkhouses or other temporary accommodation and have given the employer written notice that they do not wish a rest period; employees engaged in catching, handling and processing herring; and certain other narrowly-defined groups in the fishing, pulp and paper, and mining industries.

The Minister of Labour may grant a permit exempting an employer from compliance with the Act for a period not exceeding 30 days in case of accident, urgent and necessary work to be done to premises or equipment, abnormal pressure of work, or danger of loss of perishables. The Minister may cancel or renew a permit and there is no restriction on the number of permits or renewals that may be granted to an employer. Where a permit is issued, an employee accumulates a period of holidays equivalent to the missed rest periods, with or without pay, in conformity with the pay provisions applicable to the missed rest periods. The employer must allow the accumulated holidays to be taken within 30 days of the expiry or the renewal of a permit.

The Newfoundland Hours of Work Act, which applies to shops throughout the province, requires shop assistants to be given a day off each week in addition to Sunday, except in the weeks in which one of the eight general holidays occurs. In the weeks in which one of the 5 other specified holidays occurs, they must be given a day off in addition to Sunday and the holiday.

The New Brunswick Minimum Employment Standards Act requires employers to give their employees a weekly rest of at least 24 consecutive hours, to be taken if possible on Sunday. Where a weekly rest is impracticable, the Minister of Labour may permit rest periods to accumulate and to be taken later, either part at a time or all together. The only employees not covered are farm workers, domestic servants, employees required to cope with an emergency and part-time workers who are not usually employed more than 5 hours in a day. Certain groups of employees may be designated by the Lieutenant Governor in Council as being outside the scope of the Act.

In Nova Scotia, employees in industrial undertakings (e.g., mining, manufacturing, construction) must be granted a rest period of at least 24 consecutive hours in every period of 7 days, preferably to all employees simultaneously on Sunday. This provision may be exceeded in continuous processes.

In Ontario, in cities of 10,000 or more people, workers in hotels and restaurants must be allowed a weekly rest-day, Sunday if possible. Watchmen, janitors, foremen, and those employed for 5 hours or less in a day are exempted.

In Québec, Minimum Wage Order 4, applying generally to all industries within the scope of the Act not covered by special orders, provides for a weekly rest of at least 24 consecutive hours for the employees covered by its provisions. Farm workers, domestic servants and employees covered by decrees under the Collective Agreement Decrees Act are the only workers not within the scope of the Minimum Wage Act. The four special minimum wage orders also provide for a weekly rest of 24 consecutive hours. Under the Québec Weekly Day of Rest Act, persons employed in hotels, restaurants or clubs in places of at least 3,000 population must have 24 consecutive hours of rest in a week. In the Québec district, the inspector may permit two periods of 18 hours each instead of one 24-hour period. Where there is only one cook, the 24-hour rest may be replaced by two 12-hour periods.

The Saskatchewan Labour Standards Act provides for a weekly rest of at least 24 consecutive hours, wherever possible on Sunday. Exempted are workers employed in farming, ranching or market gardening, domestic servants, firemen, managerial employees, persons employed for family undertakings and employees who are not usually employed for more than 5 hours in a day. The Minister of Labour may by permit exempt an employer from compliance with the weekly rest requirement for a specific period not exceeding one year. Any class of employers or employees may be excluded by regulations of the Lieutenant Governor in Council, subject to such conditions as may be prescribed.



## ANNUAL VACATIONS WITH PAY

The Canada Labour Code, Part III, Division III provides for a vacation with pay of at least two weeks in respect of every year of employment. Vacation pay is 4 per cent of wages for the year in which the employee establishes his claim to a vacation.

A year of employment, under the federal law, must be continuous with one employer, and may be a 12-month period commencing with the day the employee began to work for the employer or any subsequent anniversary of that date, or it may be a calendar year or another year approved by the Minister of Labour.

All provinces have annual vacations legislation. The provisions regarding annual vacations with pay are contained in the Alberta Labour Act, Part II and in two orders under it (a general order and a special order for the construction industry); in the Ontario Employment Standards Act, Part VII and regulations; in Québec Minimum Wage Order 3; in the Saskatchewan Labour Standards Act, Part I, and regulations; and in the Prince Edward Island Labour Act. British Columbia provides for annual vacations with pay and public holidays in one statute, the Annual and General Holidays Act. Manitoba, New Brunswick and Newfoundland have separate annual vacations laws. As of February 1, 1973, the new Nova Scotia Labour Standards Code contains the vacation with pay provisions, replacing the Vacation Pay Act. Vacation with pay provisions are also contained in most decrees under the Québec Collective Agreement Decrees Act and the Construction Industry Labour Relations Act. Some industrial standards schedules make provision for pay in lieu of annual vacations.

The Canada Labour Code applies to industries within federal jurisdiction and the only employees excluded are those who are managers or superintendents or who exercise management functions, and members of the medical, dental, architectural, engineering and legal professions.

The provincial laws govern employees in employment within the jurisdiction of the province, with the exception of the classes of employees noted below. The Newfoundland Act provides for the exemption of employees or classes of employees by order of the Lieutenant Governor in Council. No regulations have yet been made.

Farm workers are excluded in all provinces except Newfoundland. In addition, British Columbia excludes persons employed in horticulture, and Manitoba and Saskatchewan, those employed in ranching and market gardening. (In Ontario and Nova Scotia, workers in certain occupations related to farming are covered. Similarly in Saskatchewan, the Act applies to egg hatcheries, green houses and nurseries and bush clearing operations, and in Manitoba to landscape gardening and growing flowers, plants, ornamental shrubs and trees.) Domestic servants are exempted in all provinces except Newfoundland. Certain categories of employed students are excluded in Ontario and Québec. Also excepted are workers employed in commercial fishing in Nova Scotia and Ontario.



Professional workers are excluded in British Columbia and Ontario. Salesmen paid entirely by commission and other special categories of salesmen, such as real estate and insurance agents are outside the scope of the Alberta vacation provisions. Real estate salesmen are also excluded in Ontario. Persons working outside an employer's establishment and without possible control over the number of days per week spent at their work are excluded from the Québec vacation order. Part-time workers employed 24 hours or less in a week are not covered in New Brunswick or Prince Edward Island; and those employed for eight hours or less in a week are exempted from the Alberta order.

The large group of workers governed by collective agreement decrees are outside the scope of the Québec vacation order. Workers governed by a collective agreement in British Columbia are exempted from the Act if the Minister of Labour approves the vacation provisions of the agreement.

The length of the vacation period and the vacation pay requirements in the various jurisdictions are shown in Table 9.

In Ontario and Saskatchewan, non-continuous prior service may be counted for vacation purposes. In Ontario, if an employee has completed 12 months of non-continuous employment in any period of 36 months after 1966, he is entitled to a vacation. Non-continuous employment includes employment of a person who consistently works all or part of a working day or days in each regular pay period.

In Saskatchewan, the period of 5 years of employment with the same employer necessary for an employee to qualify for a 3-week vacation may be made up of "accumulated" years, provided that no break in employment exceeds 6 months (182 days).

As indicated in the table, Alberta and Manitoba require the payment of regular pay for the vacation period. Regular pay means the pay the employee would have earned for his normal hours of work during the vacation period and includes the cash value of board and lodging, where provided.

In the other jurisdictions, vacation pay is a percentage of the employee's earnings for the period during which he establishes his right to a vacation. The Acts vary in what is included as earnings.

In Québec, if a worker has not completed a year's service for the same employer, he is entitled to a continuous vacation of one day for each working month. Similarly, in Saskatchewan, regulations provide that, in order to make the vacation entitlement date of his employees uniform, an employer may grant to an employee with less than a year's service a continuous vacation of one day for each month of employment. The Board of Industrial Relations in Alberta may, in making a vacation pay order, require an employer to give an employee who has not completed a year of employment a vacation in proportion to the time worked.

Most of the laws specify the working time constituting a year of employment. In British Columbia and New Brunswick, a year's service consists of not less than 225 working days (in New Brunswick, working days or shifts). In Manitoba, an employee is held to have completed a year's service if he has worked not less than 95 per cent of the regular working hours during a continuous 12-month period. In Alberta, Newfoundland, Nova Scotia and Prince Edward Island, the employee must have worked 90 per cent or more of the working time during the year (of the regular working days in the establishment in Alberta and of regular working hours in Newfoundland, Nova Scotia and Prince Edward Island).

Where an employee has worked less than the prescribed working time for a year's continuous service and continues to work for the same employer, he is entitled to a vacation on a pro rata basis in Alberta, and to accrued vacation pay for the period worked during the year in British Columbia, Manitoba, Newfoundland, New Brunswick, Nova Scotia and Prince Edward Island. The vacation pay is payable in New Brunswick and Prince Edward Island not later than the next regular pay period after the end of the vacation pay year; in Manitoba, on the anniversary date of the workman's employment; in Newfoundland, within a week after the anniversary date; and in the other two provinces, within a month after the anniversary date.

The employer may determine the time when each of his employees may take the annual vacation to which he is entitled, within certain limits laid down by law. The vacation must be given in New Brunswick not later than 4 months after June 30; in Manitoba and Saskatchewan within 10 months, and in the federal jurisdiction, British Columbia, Newfoundland, Nova Scotia, Ontario and Prince Edward Island not later than 10 months after the date on which the employee becomes entitled to a vacation; in Québec within 12 months, and in Alberta not later than 12 months after the date of entitlement.

Nine jurisdictions require an employer to give notice to the employee of when his vacation is to begin. The minimum period of notice required is one week in Newfoundland, New Brunswick, Nova Scotia and Prince Edward Island; two weeks in the federal jurisdiction and Saskatchewan; 15 days in Manitoba; and 16 days in Québec. Under the Canada Labour Code, and in Manitoba, Newfoundland and Saskatchewan, another period of notice may be substituted by agreement. In Alberta, the employer must give the employee one week's notice, if agreement cannot be reached regarding the date on which the vacation is to commence.

An employer in a federal undertaking is required to pay his employees their vacation pay during the 14 days before the beginning of the vacation, except in cases where it is impracticable to do so and the custom of the establishment is to pay vacation pay on the regular payday during or immediately following an employee's vacation. Most of the provincial laws require vacation pay to be paid at least one day before the vacation begins. The Québec order simply states that vacation pay is to be paid before the employee's departure on vacation. In Saskatchewan, an employer must pay an employee his pay during the 14 days immediately preceding the beginning of the vacation.

The Canada Labour Code and 6 of the provincial laws stipulate that an employee's annual vacation is to be extended by one day in lieu of a general holiday that occurs during the vacation. (In Manitoba, Newfoundland and Saskatchewan, a general holiday is defined as a day for which he is entitled to be paid wages without being present at work.) The federal and Saskatchewan laws provide further that for the extra day the employee is to be paid the wages to which he is entitled for the holiday.

Under the Canada Labour Code and all the provincial laws, workers are entitled to vacation pay on termination of employment during the working year. In most jurisdictions vacation pay must be paid immediately on termination of employment. In Ontario, vacation pay is payable on termination or within one week; in Nova Scotia, within 10 days; in New Brunswick and Prince Edward Island, by the next regular payday following termination of employment; and in Newfoundland within 2 pay periods or one month of termination, whichever is earlier.

In Alberta, employers in the construction industry must give each employee (except office staff) vacation credits at the end of each regular pay period. The vacation credits (4 per cent of the employee's regular earnings) are to be recorded in the employer's pay roll. The employee must be given the amount of money equivalent to his accrued vacation credits on December 31 or on termination of employment. If he is entitled to an annual vacation, he must be paid his vacation pay the day before his vacation commences.

## 9. Annual Vacation and Vacation Pay

Jurisdiction	Length of Annual Vacation	Vacation Pay
Federal	2 weeks	4% of annual earnings
Alberta	2 weeks	Regular Pay
British Columbia	2 weeks	4% of annual earnings
Manitoba	2 weeks; 3 weeks after 5 years' service	Regular pay
New Brunswick	2 weeks	4% of annual earnings
Newfoundland	2 weeks	4% of annual earnings
Nova Scotia	2 weeks	4% of annual earnings
Ontario	1 week; 2 weeks after 2 years' service	2% of annual earnings in first year; 4% of annual earnings after second year
Prince Edward Island	2 weeks	4% of annual earnings
Québec	2 weeks	4% of annual earnings

Saskatchewan	2 weeks; 3 weeks after 5 years' service	1/26 of annual earnings in first four years; 3/52 of annual earnings after fifth year
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## GENERAL HOLIDAYS

The federal jurisdiction and 5 provinces — Saskatchewan, Alberta, British Columbia, Manitoba and Nova Scotia — have legislation of broad application dealing with paid general holidays. Ontario has regulated pay for work done on general holidays.

### FEDERAL

Under the Canada Labour Code, Part III, Division IV, eight general holidays in a year are to be observed as paid holidays — New Year's Day, Good Friday, Victoria Day, Dominion Day, Labour Day, Thanksgiving Day, Remembrance Day and Christmas Day. The Code provides also that, under certain conditions, an alternative holiday may be substituted for any of the eight holidays specified.

Should a holiday occur on a day on which an employee does not normally work, he must be granted a day off with pay in lieu of the holiday, either at a time convenient to him and his employer or by the addition of a day to his annual vacation.

If Christmas, New Year's Day, Dominion Day or Remembrance Day fall on a Saturday or Sunday that is a non-working day for an employee, he must be given a holiday with pay on the working day immediately before or after the general holiday. These provisions regarding alternative days off do not apply, however, to employees covered by a collective agreement that entitles them to at least eight paid holidays a year.

The Code lays down the general principle that an employee in a federal undertaking who does not work on a holiday is entitled to his regular pay for the day. If he is paid by the week or month, his wages must not be reduced by reason of his not working on a holiday. If he is paid on any other basis, he must receive the equivalent of the wages he would have earned at his regular rate for his normal working day. The regular rate of wages for an employee whose hours of work vary from day to day or who is paid other than on an hourly or daily basis is the average of his daily earnings, exclusive of overtime, for the days he worked during the four weeks immediately preceding the holiday, or an amount calculated by the method established by the collective agreement.



An employee in a federal undertaking who is required to work on a general holiday is entitled to his regular wages for the day, and in addition, to time and one-half his regular rate for all time worked. In effect, he is paid two and one-half times his usual rate.

These holiday provisions do not apply to superintendents, managerial employees or members of designated professions.

Different provisions apply to employees employed in continuous operations who are required to work on a holiday. A "continuous operation" is defined to include any industrial establishment in which in each 7-day period operations normally continue without cessation until the end of the regularly scheduled operations for that period; the operation of trains, planes, ships, trucks and other vehicles; telephone, radio, television, telegraph or other communication or broadcasting services; or any other operation normally carried on without regard to Sundays or holidays.

An employee who works on a holiday must be paid his regular wages for the day and must, in addition, be paid time and one-half his regular rate for the time worked, or be granted a holiday with pay at some other time, either a day added to his annual vacation or another day convenient to him and his employer, or, where a collective agreement so provides, be paid for the holiday on his next non-working day.

There are some situations in which an employee is not entitled to holiday pay. An employee is not entitled to pay for a general holiday that occurs in his first 30 days of employment with an employer, but if he is required to work on a holiday he must be paid time and one-half his regular rate. If he is employed in a continuous operation, he may be paid at his regular rate for work done on a holiday.

A further exception is that an employee is not entitled to pay for a general holiday on which he does not work if he is not entitled to wages for at least 15 days during the 30 calendar days immediately preceding the holiday. An employee in a continuous operation is not entitled to pay for a general holiday if he did not report for work in response to a call from the employer, or if he makes himself unavailable for work in accordance with the conditions of employment prevailing in the establishment in which he works.

A general regulation provides that a longshoreman employed by an employer who is a member of a "multi-employer unit" is entitled to holiday pay if he is entitled to wages for at least 15 days or 120 hours in the 30 calendar days immediately preceding a general holiday. Pay for the holiday may not be less than eight times the employee's basic hourly wage rate.

A longshoreman employed by an employer who is not a member of a "multi-employer unit" must be paid, on each payday, in lieu of general holidays, an amount equal to 3 per cent of his basic wage rate multiplied by the number of hours he has worked for the employer in the pay period.



An employee who is required to work on a general holiday is to be paid at not less than one and one-half times his basic rate of wages for the time worked by him on that day.

## ALBERTA

In Alberta, a general holiday order requires employers to give their employees eight paid holidays a year — New Year's Day, Good Friday, Victoria Day, Dominion Day, Labour Day, Thanksgiving Day, Remembrance Day and Christmas Day. Domestic servants in private homes, farm labourers (other than those in commercial undertakings), municipal policemen and various categories of salesmen are excluded from entitlement to public holidays.

The rule is that if one of the eight general holidays falls on a regular working day for the employee and he does not work on that day, he is entitled to his regular wages for the day.

If the employee is paid by the week or month, his wages must not be reduced by reason of his not working on the holiday. If he is paid on a daily or hourly basis, he must be paid at least the equivalent of the wages he would have earned for his normal hours of work. If his wages are calculated on other than an hourly, daily, weekly or monthly basis, he must receive the equivalent of his average daily earnings, exclusive of overtime, for the employee's term of employment or for the two months he worked immediately preceding the week in which the holiday occurred.

Where an employee is required to work on a general holiday, he must be paid his regular pay for the day and, in addition, time and a half his normal wages for the time worked. Alternatively, he must be given a holiday with pay at some other time not later than his next annual vacation or on termination of employment, whichever occurs first.

An employee is not entitled to a holiday with pay if he has not worked for his employer for at least 30 days in the preceding 12 months; or if he does not work on the holiday when he has been required or scheduled to do so; or if he is absent without the employer's consent on either of the working days immediately preceding or following the holiday. If such an employee works on a general holiday, he must be paid at least his normal wages for all time worked.

If an employee is not required to work on a general holiday, he must not be required to work on another day of that week that would otherwise be a day of rest, unless he is paid his normal wages for the day, in addition to all other wages due him.

Construction workers in Alberta, with the exception of office staff, must be given holiday pay in a lump sum in lieu of being given a holiday with pay on each of eight general holidays.

An employer in the construction industry is required to pay each of his employees a sum equal to 3.2% of his regular pay for the period of his employment or the period since he was last paid such sum. Pay in lieu of holidays must be given on December 31 of each year or on termination of employment.

## **BRITISH COLUMBIA**

In British Columbia, an order made under the Annual and General Holidays Act provides for eight paid general holidays a year — New Year's Day, Good Friday, Victoria Day, Dominion Day, Labour Day, Thanksgiving Day, Remembrance Day and Christmas Day. Another day may be substituted for any of the listed holidays.

The order does not apply to employees covered by a collective agreement under the Labour Relations Act. Also excluded are: farm workers; horticultural workers; domestic servants; professional employees and trainees; salesmen of automobiles and other vehicles, mobile homes and heavy duty industrial equipment; and employees exempted by regulation from the Minimum Wage Acts (e.g., supervisory, managerial and confidential employees, policemen, firemen, commercial travellers, watchmen, caretakers, maintenance workers, employees on fishing boats, employees of the Pacific Great Eastern Railway, and handicapped employees.)

If a holiday falls on a day that is a non-working day for the employee, he must be given a holiday with pay at some other time not later than his next annual vacation, or the day on which he is required to be paid vacation pay where he has not earned an annual vacation, or on termination of employment, whichever occurs first.

An employee who is not required to work on a general holiday that would otherwise be a working day must be paid his regular pay for the day. If he is paid by the week or month, his wages must not be reduced by reason of his not working on a holiday. If he is paid on any other basis he must receive the equivalent of a normal day's pay.

Where an employee's working hours vary from day to day, or where his wages are not calculated on a time basis, his pay for a general holiday is to be deemed to be the average of his daily earnings, exclusive of overtime, for the days he has worked in the four-week period immediately preceding the week in which the holiday occurs.

An employee who is not required to work on a general holiday must not be required to work on another day of that week that would otherwise be a day of rest, unless he is paid at his regular rate for all hours worked, in addition to all other wages due him.

The general rule is that, where an employee is required to work on a holiday, he must be paid not less than time and one-half his regular rate of pay for all

hours worked and, in addition, must be given a holiday with pay at some other time not later than his next annual vacation or the day on which he is required to be paid his accrued vacation pay, or on termination of employment whichever occurs first.

Where an employee employed in a "continuous operation" is required to work on a holiday, he must, in addition to his regular rate of pay for the day, either be paid not less than time and one-half his regular rate for all hours worked or be given a holiday with pay at some other time. A "continuous operation" is defined as an operation or service normally carried on without regard to Sundays or public holidays.

For purposes of these provisions, an employee's "regular rate" is to be deemed to be the average of his hourly earnings, exclusive of overtime, for the hours he has worked in the four-week period immediately preceding the week in which the holiday occurs.

An employee is not entitled to pay for a general holiday that occurs in his first 30 days of employment. An employee is also excluded from holiday benefits if he has not earned wages for at least 15 days during the 30 calendar days immediately preceding the holiday.

Where certain employees of an employer are bound by a collective agreement, and other employees of the same employer are entitled to the general holidays provided for in the order, the employer may, with the approval of the Board of Industrial Relations, substitute a holiday specified in the agreement for a general holiday under the order, so that all his employees will be entitled to a holiday on the same day.

## **MANITOBA**

In Manitoba, the Employment Standards Act provides for seven paid general holidays a year — New Year's Day, Good Friday, Victoria Day, Dominion Day, Labour Day, Thanksgiving Day and Christmas Day. Under certain conditions, another day may be substituted for any of the holidays named in the Act. A special Act deals with the observance of Remembrance Day.

The holiday provisions do not apply to independent contractors, persons employed in agriculture, fishing, fur farming, dairy farming or growing horticultural or market garden products for sale, domestics in private homes, or students and practitioners of professions governed by statute.

An employee who does not work on a holiday that falls on a regular working day is entitled to be paid at least the equivalent of the wages he would have earned on that day. When an employee's wages vary from day to day, his holiday pay must be at least equivalent to his average daily earnings, exclusive of overtime, for the days he worked during the 30 calendar days preceding the holiday. The holiday pay must be paid whether or not the employee is on the

employer's pay roll at the time of the general holiday, unless the employee has voluntarily terminated his employment before that day.

Should a holiday occur on a day that is a non-working day for the employee, he must be granted a day off with pay in lieu of the holiday not later than at the time of his next annual vacation or at a time convenient to him and his employer.

If New Year's Day, Dominion Day or Christmas Day falls on a Saturday or Sunday that is a non-working day for the employee, he must be given a holiday with pay on the working day immediately preceding or following the holiday.

An employer must not require an employee who has not worked on the holiday to work on another day in the holiday week that would otherwise be his day of rest, unless he is paid one and one-half times his regular rate for the work done on that day.

An employee who is required to and does work on a general holiday is entitled to his regular pay for the day and, in addition, to one and one-half times his regular rate for all time worked.

An employee is not entitled to holiday pay in the following situations: if he has not earned wages on at least 15 days during the 30 calendar days immediately preceding the holiday; if he did not report for work in response to a call from the employer on the day of the general holiday, except where he is dismissed or laid off by his employer or ill; or if he is absent without the employer's consent on the regular working day immediately preceding or following the holiday, unless absent because of established illness. However, an employee who is not entitled to holiday pay for any of the above reasons must be paid at the overtime rate if he works on the holiday.

Employees in the construction industry are entitled to a lump sum in lieu of paid holidays. Each employee must be paid 2 per cent of his total gross wages, exclusive of overtime, for the calendar year. This amount must be paid by December 31 or on termination of employment. Where an employee in the construction industry is required to work on a holiday, he must be paid at one and one-half times his regular rate for the time worked, in addition to the lump sum.

Special provisions are also applicable to employees in a continuously operating plant, seasonal industry, place of amusement, gasoline service station, hospital, hotel or restaurant, or in domestic service other than in private homes. For these employees, equivalent compensatory time off may be substituted for overtime pay for holidays worked. The time off must be granted within 30 days and the employee must be given at least two days' notice of his day off. At the request of the employee, he and his employer may agree to a later date.

A special Act in Manitoba deals with the observance of Remembrance Day. Work must not be performed on the holiday except in farming, in certain listed



essential services, in continuously operating plants, or in emergency circumstances on permit from the Minister of Labour.

An employee who is required to work on Remembrance Day must be paid at least his regular rate of wages and must be granted a day off with pay within 30 days before or after the holiday. In lieu of being given a day off, an employee must be paid twice his regular rate for the time worked. Where an employee is called in to work, he must be paid for the time worked or for not less than half the normal working hours of a regular working day, whichever is greater.

## **NOVA SCOTIA**

The Nova Scotia Labour Code, effective February 1, 1973, provides for 5 paid general holidays — New Year's Day, Good Friday, Dominion Day, Labour Day and Christmas Day. Under certain conditions, another day may be substituted for any of these holidays.

The holiday provisions do not apply to domestic servants in private homes, professional practitioners and trainees, various categories of salesmen, employees covered by a collective agreement, fish packing employees, certain workers in the petrochemical industry, and persons working in specific areas of primary farming.

An employee is entitled to a holiday with pay for each general holiday falling within any period of his employment.

If the employee is hired by the week or month, his wages must not be reduced by reason of his not working on the holiday. If he is paid on a daily or hourly basis, he must be paid at least the equivalent of the wages he would have earned for his normal hours of work. If his wages are calculated on other than an hourly, daily, weekly or monthly basis, he must receive the equivalent of the wages he would have earned at the regular rate of wages for his normal working day.

If a holiday falls on a day that is a non-working day for the employee, he must be given a holiday with pay on the working day immediately following the general holiday, or on the day immediately following his annual vacation or on a day agreed upon by the employee and his employer.

Where an employee is required to work on a holiday he must be paid at a rate equal to one and a half times his regular rate of wages for the time worked by him on that day. Where an employee employed in a "continuous operation" is required to work on a holiday, he must be paid as described above or he may be granted a holiday with pay on the working day immediately following his annual vacation, or on another day agreed upon by the employee and the employer.



An employee is not entitled to a holiday with pay if he has not earned wages for at least 15 days during the 30 calendar days immediately preceding the holiday; or if he is absent on either of the working days immediately preceding or following the holiday. (This provision is not applicable if the employer has directed him not to report on either day.) An employee in a "continuous operation" is not entitled to be paid for a general holiday on which he did not report for work after having been called upon to work on that day.

## **ONTARIO**

The Ontario Employment Standards Act requires the payment of overtime pay for work done on seven public holidays. The holidays are New Year's Day, Good Friday, Victoria Day, Dominion Day, Labour Day, Thanksgiving Day and Christmas Day. If New Year's Day, Dominion Day or Christmas Day fall on a Sunday, the following day is to be considered a holiday. Where an employee works on any of these holidays, he must be paid not less than one and one-half times his regular rate. The employee's regular rate of pay must not be reduced in order to conform with this requirement.

Overtime pay does not have to be paid to an employee who, in the opinion of the Director of Employment Standards, is guaranteed more favourable benefits in respect of work performed on a holiday under an agreement or arrangement with his employer.

Certain categories of workers are excluded from the holiday provisions of the Act. Amongst these are domestic servants, persons engaged in commercial fishing, professional and managerial employees, farm workers, resident janitors, commission salesmen, taxi drivers, ambulance drivers and their helpers, and "seasonal employees" in the hotel, motel, tourist resort, restaurant and tavern industry (who do not work more than 16 weeks in a year and are provided with room and board).

## **SASKATCHEWAN**

In Saskatchewan, a minimum wage order requires employees who do not work on any of eight public holidays to be paid their regular pay. For workers in the construction industry and in logging and lumbering, the order provides for payment of a lump sum in lieu of pay for the eight listed holidays. The eight holidays are New Year's Day, Good Friday, Victoria Day, Dominion Day, Labour Day, Thanksgiving Day, Remembrance Day and Christmas Day.

When Christmas or New Year's Day falls on Sunday, the following Monday is to be observed as a holiday. When the Monday following Remembrance Day is declared a holiday, it is to be observed as a holiday under the order. By agreement between an employer and a trade union representing a majority of the employees in an appropriate bargaining unit, another working day may be substituted for any of the eight listed holidays. Where workers are not

represented by a trade union, the Minister of Labour may by order permit a similar substitution, if he is satisfied that the employer and a majority of the employees are in favour of the change.

The order applies to all employees except managerial employees, domestic servants in private homes, employees in farming, ranching and market gardening (other than in egg hatcheries, greenhouses, nurseries, and brush clearing operations), and handicapped workers in sheltered workshops.

If required to work on a holiday, employees in almost all workplaces must receive, in addition to their regular pay for the holiday, time and one-half the regular rate for every hour or part of an hour worked; in effect, two and one-half times their regular pay.

A major exception to the above rule is that workers in hotels, restaurants, hospitals, nursing homes and educational institutions who are required to work on a holiday must be paid, in addition to their regular pay, wages at the regular rate. In addition to being paid their regular pay, full-time employees may be given time off equivalent to the hours worked on the holiday at regular rates within four weeks.

Persons engaged in the operation of a well-drilling rig are required to be paid at their regular rate of wages, plus their normal pay for the day, for work performed on a holiday.

The order provides that, where an employee's wages, exclusive of overtime, vary from day to day, pay for a public holiday is to be calculated on the basis of his average daily wage, exclusive of overtime for the four immediately preceding days that bear the same name as the day on which the holiday occurs.

Workers in construction and in logging and lumbering who do not work on any of the eight specified holidays must be given holiday pay in a lump sum in an amount equal to 3 per cent of their gross wages for the calendar year, exclusive of overtime. Payment must be made on December 31 or on termination of employment, whichever occurs first. Where a majority of the employees in an appropriate bargaining unit are represented by a trade union, the union and the employer may, by agreement in writing, elect that the workers be paid regular wages for each holiday, instead of a lump sum payment.

Construction workers who work on the holiday must be paid, in addition to the lump sum payment, wages at the rate of time and one-half their regular rate for all time worked. The latter amount must be paid in the pay period in which it is earned.

Workers in the logging and lumbering industries who work on a public holiday must be paid regular pay for all time worked, in addition to the lump sum payment to which they are entitled.

## OTHER LEGISLATION DEALING WITH HOLIDAYS

A provision in the minimum wage order of Manitoba deals with the question of pay for public holidays to the extent of prohibiting deductions from the minimum wage for time not worked on a holiday.

Workers are protected against a reduction in the minimum wage for time not worked on a general holiday (as listed above) which falls on a regular working day. Where an employee does not work on a holiday but does work the regularly scheduled hours on the days immediately preceding and following the holiday and on all the other working days in the week, he is to be deemed, for the purpose of determining the minimum amount of wages to be paid to him for that week, to have worked regular hours on the holiday. An employee does not lose the benefits of this provision through being absent on either the day before or the day after the holiday because of established illness or with the employer's consent.

Under the Municipal Act of British Columbia, shops in all municipalities must be closed on Christmas Day and the day immediately following, New Year's Day, Good Friday, Dominion Day, Victoria Day, Labour Day, Remembrance Day, the Queen's birthday, Thanksgiving Day and any day designated as a provincial or municipal holiday. There is also legislation in Newfoundland requiring shops to be closed on 12 specified public holidays and on one additional holiday fixed by the municipality.

The Québec Commercial Establishments Business Hours Act requires shops to remain closed on New Year's Day, Easter Monday, St. Jean Baptiste Day or the day following if June 24 is a Sunday, Dominion Day or the day following if July 1 is a Sunday, Labour Day, Thanksgiving Day, Christmas Day or any other day fixed by proclamation of the Lieutenant Governor in Council. Shops must not open before 1 p.m. on Boxing Day or on January 2.

Provisions prohibiting work on specified public holidays except with a permit, stipulating that certain holidays must be observed as paid holidays, or requiring the payment of an overtime rate for work done on specified holidays are regular features of the decrees under the Québec Construction Industry Labour Relations Act and Collective Agreement Decrees Act and of industrial standards schedules in Alberta, Newfoundland, New Brunswick, Nova Scotia, Ontario, Prince Edward Island and Saskatchewan. These provisions, while regulating a considerable portion of industry, particularly in Québec, apply only to certain trades and areas in the province concerned. They are not dealt with in this publication.

## TERMINATION OF EMPLOYMENT

The federal jurisdiction and seven provinces — Manitoba, Newfoundland, Nova Scotia, Ontario, Prince Edward Island, Québec and Saskatchewan — have legislation requiring an employer to give notice to the individual worker

whose employment is to be terminated. Five of these provinces place an equal obligation on the employee to give notice to his employer on quitting his job.

In addition, the Parliament of Canada, Manitoba, Nova Scotia, Ontario and Québec require an employer to give advance notice of a projected termination of employment or layoff of a group of employees.

The Canada Labour Code also provides for severance pay for employees with 5 years' service or more.

In 6 jurisdictions the legislation is part of the labour code: the Canada Labour Code, Part III, Divisions V.2, V.3 and V.4; the Manitoba Employment Standards Act, Part III; the Ontario Employment Standards Act, Part II; the Nova Scotia Labour Standards Code, sections 68-74<sup>1</sup>; the Prince Edward Island Labour Act, Part II; and the Saskatchewan Labour Standards Act, Part IV. Newfoundland has a separate law, the Employment (Notice of Termination) Act. The provisions in Québec governing individual notice are contained in the Civil Code; notice of group termination requirements are laid down in Section 45 of the Manpower Vocational Training and Qualification Act and a general regulation made under it.

## **FEDERAL**

### **Individual Notice**

Employees who have been continuously employed for three months or more are entitled to two weeks' notice of termination of employment or layoff. Regulations define circumstances in which notice is not required for layoff. In lieu of notice, the employer may pay an amount equivalent to two weeks' wages at the employee's regular rate for his regular hours of work.

The requirement to give notice does not apply to superintendents, managers or members of listed professions, or where an employee is dismissed for just cause.

Where an employee continues to be employed for more than two weeks after the termination date specified in the notice, his employment must not be terminated, except with his written consent, unless notice is given again.

The Code takes into account the bumping provisions that may be contained in collective agreements. Where a collective agreement authorizes that an employee whose position becomes redundant may replace another employee on the basis of seniority, the notice requirement may be met either by giving at least two weeks' notice to the union and the employee and posting a copy of the notice in a conspicuous place in the establishment, or by giving pay in lieu of notice to the employee whose employment is actually terminated.

After notice has been given, wages and other conditions of employment must not be altered, except with the written consent of the employee. During

<sup>1</sup> In force as of February 1, 1973.



the notice period the employee must be paid his regular wages for his regular hours of work.

### Group Notice

The Code also requires that the employer give advance notice of group dismissals where the employment of 50 or more persons is to be terminated simultaneously or within a four-week period. Regulations may be made providing for advance notice where a lesser number of employees is being dismissed.

For purposes of group dismissals, layoff is equivalent to termination, except in circumstances determined by regulations.

The length of notice period varies according to the number of employees being dismissed:

50 — 100 .....	8 weeks
101 — 300 .....	12 weeks
over 300 .....	16 weeks

Superintendents and managerial employees are to be included in calculating the number of employees being dismissed. Regulations exclude employees from the group notice provisions when they are employed on a seasonal or irregular basis or under an arrangement whereby the employee may choose to work or not when requested to do so.

Advance notice must be given in writing to the Minister of Labour, with copies to the Department of Manpower and Immigration and the trade union. Where there is no union, notice must be given to the employees being dismissed, either in writing or by posting a notice in the establishment.

The notice must state the anticipated date of dismissal and the estimated number of employees in each occupational classification whose employment is to be terminated. The regulations require that the notice also include the name of the employer and any trade union acting as bargaining agent, the location at which termination is to take place, the nature of the industry, and the reason for termination. In addition, the employer and trade union must provide the Manpower and Immigration Department with whatever information it requests in order to assist the employees. Both are required to co-operate with that Department in order to facilitate the re-employment of the dismissed employees.

The requirement to give group notice may be waived for an industrial establishment or specified group of employees by an order of the Minister of Labour if he is satisfied that the requirement would be unduly prejudicial to the interests of the employees or the operation of the establishment.

A Canada Labour Standards regulation defines industrial establishment for the purposes of group notice as all branches of an employer's business located



in a regional division established under the Unemployment Insurance Act. Schedules outline what constitutes an industrial establishment for the CNR, CPR, Air Canada and CP Air.

### **Severance Pay**

The Canada Labour Code requires an employer to give an employee who has completed 5 years of continuous employment severance pay upon termination of employment by the employer. The severance pay must be equivalent to two days' wages at his regular rate of wages for his regular hours of work for each completed year of employment that is within the term of his continuous employment by the employer, up to a maximum of 40 days' wages.

The employer is exempt from the severance pay provisions if, either before or immediately upon termination, the employee is entitled to a pension under a pension plan contributed to by the employer and registered in accordance with the Pension Benefits Standards Act. By the same token, the severance pay provisions do not apply if the employee is similarly entitled to a pension under the Old Age Security Act, or to a retirement pension under the Canada Pension Plan or the Québec Pension Plan.

### **General Provisions**

The Canada Labour Code Standards Regulations define circumstances under which layoff is not considered termination of employment for purposes of individual and group notice and severance pay.

Notice is not required where the layoff is the result of a strike or lockout, is for a term of three months or less, or is made pursuant to the provision of a collective agreement that has the effect of regulating the size of the work force.

In certain circumstances, a layoff of more than three months also does not constitute termination: where the employer notifies the employee that he will be recalled on a fixed date or within a fixed period of up to 6 months and the employee is actually so recalled; or where, during layoff, the employee continues to receive payments from the employer in amounts mutually agreed upon, the employer continues to make payments to a pension plan, or the employee receives supplementary employment benefits or is entitled to do so.

Continuity for the purposes of group and individual termination, severance pay and maternity leave is not to be broken where an employee is absent from work because of a layoff that does not constitute termination or where the absence is permitted or condoned by the employer.

## **MANITOBA**

### **Individual Notice**

In Manitoba, an employer or employee in any work or occupation, except farming, must give notice of termination of employment and, except in the case of a person paid less frequently than once a month, the period of notice required is one regular pay period. If the employees are paid less often than once a month, reasonable notice must be given. Notice of termination is not required if an employee is hired for a fixed period unless the employment is, by mutual agreement, continued after the end of the period. Notice is also not required if the employment of an individual is terminated due to violent or improper conduct.

The requirements for giving notice do not apply if a general custom or practice prevails in an industry which is contrary to the terms of the Act or where different conditions concerning notice are established by collective agreement. If employment is terminated during an employee's first two weeks in a job, notice is not required unless the employer and employee have agreed in writing that the requirements of the Act will apply.

An employer is permitted to establish a practice whereby employment may be terminated with a shorter period of notice than that provided for in the Act, and the practice is considered to have been established one month after he has notified each of his employees in writing of the practice and has posted a notice setting out the terms of the practice. Each new employee must be informed of the practice by written notice at the time employment begins.

Complaints of failure to give the required notice may be made in writing to the Minister of Labour within a period of 90 days after employment is terminated. A procedure is laid down in the Act for the settlement of such complaints.

### **Group Notice**

Manitoba requires that advance notice of group dismissals where 50 or more employees are to be dismissed within a period of 4 weeks be given in writing to the Minister of Labour. Copies must be sent to the certified or recognized union. Where there is no union, the notice must be given to the employees being dismissed either in writing or by posting a notice in the establishment. The written notice must state the anticipated date of dismissal and the estimated number of employees in each occupational classification whose employment will be terminated. Regulations may require that the notice include additional information. In addition, there must be co-operation with the Minister to re-establish the employment of the dismissed employees.

The notice period varies with the number of employees to be dismissed:

50 — 100 .....	8 weeks
101 — 300 .....	12 weeks
over 300 .....	16 weeks

Notice for group termination does not apply when the employees are: employed for a definite term or task of 12 months or less; laid off according to regulations, or after refusing reasonable alternate work offered by the employer or by a seniority system; laid off and do not return to work within a reasonable time after being requested to do so by their employer; on strike or locked out; employed in the construction industry; guilty of wilful misconduct, disobedience or neglect of duty; employed under contract that is or has become impossible to perform or is frustrated by a fortuitous or unforeseeable event; employed under an arrangement whereby they may elect to work or not to work for a temporary period; or at the age of retirement according to the established practice of the employer. The Minister may, by order, make exemptions from the provisions of the Act dealing with group termination if the application of the provisions is unduly prejudicial to the interests of the employees or employer or if it would be seriously detrimental to the industrial establishment.

After notice has been given, wages and other conditions of employment must not be altered, except with the written consent of the employee or if there is a collective agreement in force which authorizes changes or variations.

The employer may terminate the employment of an employee without notice if he notifies the employee in writing to this effect and pays him the equivalent of the wages he would have earned for working regular hours during the notice period.

Any employee who wishes to terminate his employment prior to the expiration of the period of notice must give written notice of such action to his employer.

The employer and the trade union representing the employees affected by the termination must co-operate with the Minister in any action or program aimed at facilitating the re-establishment in employment of the employees involved.

The requirement to give notice may be waived for an industrial establishment or specified group of employees by an order of the Minister of Labour if he is satisfied that the requirement would be unduly prejudicial to the interests of the employer, employees or the operation of the establishment.

## NEWFOUNDLAND

In Newfoundland, both the employer and the employee are required to give notice of termination of employment. Where an employee is paid once a month

or more often, the required period of notice is one regular pay period. Where the employee is paid less often, reasonable notice must be given. In lieu of notice, an employer may pay an employee the normal wages, exclusive of overtime, that he would have earned during the period of notice.

Notice of termination is not required where employment is interrupted by a strike or lockout, or during the first month of employment, or where the employee is hired for a fixed period or for the performance of specified work, unless by mutual agreement the work is continued after the end of the period or the completion of the work.

The requirements of the Act regarding the period of notice do not apply where a different period is established in a collective agreement, or in a written agreement of employment between the employer and employee, if the notice period is of equal length for both parties. Further, a well-established general custom or practice in any industry respecting the period of notice may be continued, in lieu of the period of notice provided for in the Act.

All employers and employees within the jurisdiction of the province are covered by the Act. Regulations may be made exempting any industry or class of persons from coverage.

## **NOVA SCOTIA**

### **Individual Notice**

In Nova Scotia, the Code forbids an employer to discharge or lay off an employee who has been employed for 3 months or more without first giving him written notice in case of either individual or group termination.

In cases of individual termination, the notice period varies with the length of service:

less than 2 years .....	1 week
2—5 years .....	2 weeks
5—10 years .....	4 weeks
10 years or more .....	8 weeks

### **Group Notice**

Notice of group termination must be given to each employee affected where 10 or more employees are to be discharged or laid off within a period of 4 weeks or less. The Minister of Labour must be informed in writing of any group notice. The notice period varies with the number of employees being dismissed:

10—99 .....	8 weeks
100—299 .....	12 weeks
300 or more .....	16 weeks

**General Provisions**

An employee employed for 3 months or more must also give his employer notice before quitting his job unless the employer has been guilty of a breach of the terms and conditions of employment. The notice period depends upon the length of employment:

3 months — 2 years .....	1 week
2 years or more .....	2 weeks

Where a person continues to be employed after the expiry of the notice for a period exceeding the length of notice, he must be given notice again before his employment may be terminated.

Successive periods of employment may be accumulated unless there has been a break of more than 13 weeks in employment, in which case the last period of employment is counted.

An employer must not alter wages and conditions of employment once notice is given, whether by the employer or employee, and must, upon the expiry of the notice, pay the employee all vacation pay to which he is entitled.

Notice may be made conditional upon the happening of a future event if the required notice period is observed.

An employer may terminate an employee's employment immediately upon giving notice if he gives the employee pay in lieu of notice. This pay must be equivalent to the amount the employee would have earned at his regular rate in a normal, non-overtime work-week during the required notice period.

As already mentioned, notice is required in case of layoff. The requirement does not apply where a person is laid off for 6 consecutive days or less or in circumstances defined by regulations. An employee who is not entitled to notice because of the duration of his layoff and whose employment is subsequently terminated (by continued layoff or otherwise) must be given pay in lieu of notice as if his employment had been terminated without notice when he was first laid off.

The requirement to give notice does not apply where the employee has been guilty of wilful misconduct or disobedience or wilful neglect of duty that has not been condoned by the employer.

Persons employed for a definite term or task for a period of 12 months or less are not entitled to notice. However, if the person continues to be employed for 3 months or more after the completion of his term or task, he is to be considered a regular employee and therefore entitled to notice. His period of employment is deemed to begin at the commencement of the term or task.



In addition, persons discharged or laid off for any reason beyond the control of the employer are not entitled to notice if the employer has exercised due diligence to foresee and avoid the cause. Among these reasons are labour disputes, destruction of plant or machinery, unavailability of materials, cancellation or lack of orders, and actions of government authority.

Excluded also are persons who have been offered reasonable alternate employment by the employer or who have reached retirement age according to the established practice of the employer. Employees in the construction industry are excluded from the requirement both to receive and to give notice. Furthermore, regulations may exempt persons employed in any activity, business, work, trade, occupational profession or any part of these.

## ONTARIO

### Individual Notice

In Ontario, an employer is required to give notice in writing to an employee whose employment is to be terminated, provided the employee has completed three months' service or more. The length of notice varies with the period of employment, as follows:

3 months to 2 years .....	1 week
2 to 5 years .....	2 weeks
5 to 10 years .....	4 weeks
10 years or more .....	8 weeks

A period of employment constitutes the period between the time employment first began and the time that notice was or should have been given. Successive periods of employment may be accumulated, unless there has been a break of more than 13 weeks in employment. In such a case, the period of last employment constitutes the length of service for purposes of the notice.

### Group Notice

The group notice requirement applies when an employer plans to terminate the employment of 50 or more persons within four weeks or less. The length of notice is related to the number of workers involved. The minimum written notice that must be given by the employer to the employee and to the Minister of Labour is:

50 — 199 .....	8 weeks
200 — 499 .....	12 weeks
500 or more .....	16 weeks

Where not more than 10 per cent of the persons employed in an establishment are to be dismissed in a four-week period, and these total 50 or more

persons, the requirement for notice in the case of individual dismissal applies, **unless** the termination is caused by the permanent discontinuance of all or part of the employer's business.

Persons who have been employed for less than three months are not to be counted in determining the number employed in an establishment and are not entitled to notice.

In the case of a collective dismissal, the employer is required to co-operate with the Minister during the period of notice in any action or program designed to re-establish the dismissed workers in employment.

Employees who have received notice of a collective termination of employment are required to give written notice to their employer that they intend to quit their jobs. One week's notice is obligatory for an employee who has worked for the employer for less than two years, and two weeks' notice for one who has been employed for two years or more.

## **General Provisions**

A number of provisions are applicable to both individual and group notice.

Where notice is given, employment must continue until the notice has expired. The length of notice may not include any week of vacation, unless the person, after receiving the notice, agrees to take his vacation during the notice period. Where a person continues to be employed after the expiry of the notice for a period exceeding the length of the notice, he must again be given notice before his employment may be terminated.

Under the legislation, the employer is required to give the prescribed notice or to pay the wage or salary equivalent. The employer terminating the employment of an employee without notice must notify him in writing to this effect and pay him the equivalent of the wages he would have earned for working regular hours during the notice period. Compensation payable in lieu of notice is deemed wages for purposes of the Act.

The employer is forbidden to alter the wage rate or any other term or condition of employment of a person to whom notice has been given, and upon the expiry of the notice must pay him the wages and vacation pay to which he is entitled.

The Act covers layoffs other than "temporary layoffs," as defined. Notice of indefinite layoff is deemed to be notice of termination of employment.

A "temporary layoff" is defined as: (1) a layoff of not more than 13 weeks in any period of 20 consecutive weeks; (2) a layoff of more than 13 weeks where (a) the person continues to receive payments from the employer, (b) the

employer continues to make payments for the benefit of the person laid off under a **bona fide** retirement or pension plan or under a **bona fide** group or employee insurance plan, (c) the person laid off receives supplementary unemployment benefits, or (d) he is entitled to receive supplementary unemployment benefits, but does not receive them because he is employed elsewhere during the layoff; or (3) a layoff of more than 13 weeks where the employer recalls the person within the time fixed by the Director of Employment Standards.

The notice provisions do not apply to a person who is laid off or whose employment is terminated during or as a result of a strike or lockout at his place of work or who has been employed for less than three months. Also exempted from the requirement to receive notice are: (1) a person who is laid off after (a) refusing an offer by his employer of reasonable alternate work or (b) refusing alternate work made available to him through a seniority system; (2) a person on layoff who does not return to work within a reasonable time after being requested to do so by his employer; (3) a person employed under an arrangement such that he may elect to work or not for a temporary period when requested to do so; and (4) a person who has reached the age of retirement according to the established practice of the employer.

An employer is not required to give notice to a person employed for a definite term or task. Where, however, a term or task exceeds a period of 12 months or the person continues to be employed for three months or more after completion of the term or task, the notice provisions apply.

A person who has been guilty of wilful misconduct, disobedience or wilful neglect of duty that has not been condoned by the employer is not entitled to notice, and notice is not required where a contract of employment becomes impossible of performance or is frustrated by a fortuitous or unforeseeable event or circumstance.

Any notice of termination may be made conditional upon the happening of a future event.

An employee may terminate his employment forthwith upon notice if his employer has been guilty of a breach of the terms and conditions of employment.

The construction industry has been exempted from the requirement to give notice. Other employers are covered, including the Crown and its agencies. Those entitled to notice include professional employees, teachers, commercial fishermen, domestic servants, farm workers and salesmen.

The regulations take into account the bumping provisions that may be permitted by the terms of employment. Where the terms of employment authorize that an employee whose position becomes redundant may replace another employee on the basis of seniority, the notice requirement may be met by posting a notice containing the salient facts in a conspicuous place in the establishment.

## **PRINCE EDWARD ISLAND AND SASKATCHEWAN**

In Prince Edward Island and Saskatchewan an employer is forbidden to discharge or lay off an employee who has been in his service continuously for three months or more without giving him at least one week's written notice.

"Layoff" is defined in Saskatchewan as the temporary termination of an employee's service for a period of more than 6 days.

In both provinces, on termination the employee is entitled to his actual earnings during the week or his normal wages for one week, exclusive of overtime, whichever amount is greater. If notice is not given, the employee is entitled to his normal wages for one week, exclusive of overtime. In Saskatchewan, where an employee's wages vary from week to week, his normal weekly wage is to be obtained by averaging his earnings, exclusive of overtime, for the four-week period immediately preceding the date on which notice was given or, if no notice was given, the date of discharge or layoff.

The Prince Edward Island Act also requires an employee with three months' service or more to give his employer at least one week's notice of his intention to terminate his employment.

The requirement to give notice applies to all employees and their employers except farm workers in both provinces and domestic servants in Prince Edward Island. Saskatchewan also excludes ranching, market gardening and employees employed in family undertakings, and Prince Edward Island excludes construction, tourist establishments operating less than 6 months in a year, and students employed during the period May 1 to October 1.

In certain circumstances notice is not required; namely, discharge for just cause other than shortage of work in Saskatchewan and just cause including shortage of work in Prince Edward Island.

## **QUEBEC**

### **Individual Notice**

In Québec, Section 1668 of the Civil Code requires a domestic, servant, journeyman or labourer engaged by the week, month or year to give one week's notice of termination of employment if hired by the week, two weeks' notice if by the month, and a month's notice if by the year. The employer must give similar notice where an employee's services are no longer required. In lieu of notice, the employer may pay the employee the wages he would have earned during the notice period.

Some decrees under the Québec Collective Agreement Decrees Act also require the giving of notice of termination of employment.

## Group Notice

Under Section 45 of the Manpower Vocational Training and Qualification Act, an employer who, for technological or economic reasons, contemplates the dismissal of 10 or more employees within a period of two months is required to give advance notice to the Minister of Labour and Manpower. The minimum periods of notice required, varying with the number of workers to be dismissed, are:

10 to 99 .....	2 months
100 to 299 .....	3 months
300 and over .....	4 months

"Employee" does not include a seasonal or casual worker or a director or officer of a corporation.

The requirement to give notice does not apply to an employer in the construction industry or to an employer carrying on an undertaking of a seasonal or intermittent nature. The legislation does not apply to an establishment involved in a strike or lockout.

Layoffs are included in the term "dismissal" but the employer does not have to give notice if he lays off employees for an indefinite period of time, unless the layoff will continue for more than 6 months.

Where a fortuitous or unforeseeable event prevents an employer from giving notice, he must inform the Minister as soon as he is in a position to do so and furnish proof that he was unable to comply with the law. The Minister will then determine, in consultation with the employer, the period of notice that must be given.

The notice, which must be mailed by the employer to the Manpower Branch of the Department, and which becomes effective on the date mailing, is to contain: (a) name and address of the employer or establishment; (b) nature of the principal product or service, (c) names and addresses of associations of employees (unions); (d) reasons for the collective dismissal; (e) date on which the collective dismissal will be made; and (f) full name of each employee likely to be dismissed.

The legislation also requires the employer, at the request of the Minister, to participate immediately in the establishment of a reclassification committee, whose task is to study and recommend practical measures for the re-establishment of the dismissed employees. The certified trade union or the employees, if there is no union, must be equally represented on the committee. The employer must contribute funds to the committee to the extent agreed upon by the parties. The Manpower Branch of the Department is responsible for the establishment and functioning of such committees.



The parties may, with the Minister's consent and subject to conditions laid down by him, establish a reclassification fund. If necessary, several employers and several certified trade unions may establish a joint fund.

## 10. Notice of Individual Termination

Jurisdiction	Notice Required	Application
Federal	2 weeks	Employers in federal industries Exclusion: employed less than 3 months, superintendents, managers, members of professions
Manitoba	Pay period	Employers and employees Exclusion: employed less than 2 weeks, farm workers
Newfoundland	Pay period	Employers and employees Exclusion: employed less than 1 month
Nova Scotia	Employed less than 2 years: 1 week 2 to 5 years: 2 weeks 5 to 10 years: 4 weeks Over 10 years: 8 weeks	Employers (employees different) Exclusion: employed less than 3 months, construction industry
Ontario	Employed less than 2 years: 1 week 2 to 5 years: 2 weeks 5 to 10 years: 4 weeks Over 10 years: 8 weeks	Employers (special provisions for employees under notice of mass layoff) Exclusion: employed less than 3 months, construction
Prince Edward Island	1 week	Employers and employees Exclusion: employed less than 3 months, farm workers, construction
Québec	Hired by week: 1 week Hired by month: 2 weeks Hired by year: 1 month	Listed employees and their employers: domestics, servants, journeymen, labourers
Saskatchewan	1 week	Employers Exclusion: employed less than 3 months, farming, ranching, market gardening

## 11. Notice of Group Termination

Jurisdiction	Number of Employees	Notice Required
Federal	50 – 100 101 – 300 over 300	8 weeks 12 weeks 16 weeks
Manitoba	50 – 100 101 – 300 over 300	8 weeks 12 weeks 16 weeks
Nova Scotia	10 – 99 100 – 299 300 or more	8 weeks 12 weeks 16 weeks
Ontario	50 – 199 200 – 499 500 or more	8 weeks 12 weeks 16 weeks
Québec	10 – 99 100 – 299 300 or more	2 months 3 months 4 months

## MATERNITY PROTECTION

Legislation to ensure the health and job security of women working before and after childbirth is in force in the federal jurisdiction and in British Columbia, Manitoba, New Brunswick, Nova Scotia and Ontario.

The federal maternity leave provisions are contained in the Canada Labour Code, Part III, Division V.1. British Columbia has a special law on the subject, the Maternity Protection Act. The Manitoba provisions are contained in subsection 34.1 of the Employment Standards Act. The New Brunswick provisions are Sections 11-13 of the Minimum Employment Standards Act, a law which regulates various conditions of employment. Nova Scotia's maternity protection provisions are contained in Sections 56 and 57 of the Labour Standards Code.<sup>1</sup> The Ontario maternity protection provisions form Part II – A of the Employment Standards Act.

The Canada Labour Code states that a woman who has been continuously employed by her employer for at least one year is entitled to 17 weeks of maternity leave. Employment is deemed continuous where a business is sold or otherwise transferred to a new employer. The employee must make application at least four weeks before her leave is to begin and she must also submit a certificate from a qualified medical practitioner specifying the estimated date of delivery.

<sup>1</sup> In force as of February 1, 1973.

The 17 weeks of maternity leave is made up of 11 weeks' voluntary prenatal leave, which is to be extended to the actual date of delivery, and 6 weeks' compulsory postnatal leave. The postnatal leave may be shortened by mutual agreement of the employer and employee, if the woman submits a medical certificate certifying that the resumption of employment at the earlier time will not endanger her health.

Provision is also made for up to 11 weeks of prenatal leave in special cases where a woman has not submitted an application as required by the Code. The employee must present her employer with a medical certificate specifying the probable date of delivery and certifying that during her period of leave she was incapable of performing her normal duties because of a condition arising out of her pregnancy that was not anticipated by the physician.

Job security is guaranteed by prohibiting dismissal or layoff of an employee who is entitled to maternity leave solely because she is pregnant or because she has applied for maternity leave. An employee who resumes work after leave must be reinstated in the position she occupied before her leave began or in a comparable position with not less than the same wages and benefits. Maternity leave is not to interrupt continuity of employment for purposes of calculating pension or other benefits.

In Ontario, Manitoba and Nova Scotia, an employee must have worked continuously for her employer for at least one year in order to be eligible for maternity leave benefits.

Nova Scotia and Manitoba provide for 17 weeks of maternity leave consisting of 11 weeks' voluntary prenatal leave and 6 weeks' compulsory postnatal leave. British Columbia, New Brunswick and Ontario provide for 12 weeks' of maternity leave, 6 weeks before and 6 weeks after childbirth, with the postnatal leave being compulsory. On production of a medical certificate showing the expected date of confinement, the employee must be granted a period of leave of up to 6 or 11 weeks, depending on the province, preceding the specified date. The Ontario, Manitoba and Nova Scotia Acts stipulate that the period of voluntary leave is to extend to the actual date of delivery.

In Ontario and Nova Scotia, the employer has the right to require the employee to commence her leave at any time, if the duties of her position cannot reasonably be performed by a pregnant woman or if her performance is materially affected by the pregnancy. The employee must produce a doctor's certificate when required to do so by the employer.

The British Columbia and New Brunswick Acts forbid the employer to permit an employee to work during the 6-week period following childbirth or during a longer period than 6 weeks, if recommended in a medical certificate. The Manitoba, Nova Scotia and Ontario laws do not provide for extension of the postnatal leave on medical grounds. They place an obligation on both the employee and the employer to observe the 6 weeks' compulsory leave, unless a shorter period is recommended in writing by a medical practitioner.

In all 5 provinces, the right to maternity leave is supplemented by a guarantee that an employee will not lose her employment because of her absence on maternity leave. In Manitoba, Nova Scotia and Ontario a woman with a minimum of one year's service is protected against dismissal throughout pregnancy. In British Columbia and New Brunswick, an employer is forbidden to give notice of dismissal and to dismiss an employee for reasons arising out of absence on maternity leave during a period of 16 weeks. In Manitoba, an employer is not required to reinstate an employee when she has remained absent from work for a period of more than 10 weeks following the actual date of delivery.

In Nova Scotia and Ontario, the employer is required to permit the employee to resume work with no loss of seniority or accrued benefits. In Manitoba, for the purpose of calculating pension and other benefits employment after the termination of maternity leave is to be considered as continuous with employment before commencement of the leave.

Under a provision of the Alberta Labour Act, the Board of Industrial Relation has authority to regulate and prohibit the employment of women during and following pregnancy. The Board has not exercised this authority.

In Nova Scotia, certain employers may be exempted from the maternity protection provisions by regulation. In British Columbia, Manitoba, New Brunswick and Nova Scotia the provisions apply to employers with one or more employees whereas in Ontario, they only apply to those having 25 or more employees.

## **LABOUR STANDARDS IN THE YUKON AND NORTHWEST TERRITORIES**

Labour standards legislation has been enacted by the Territorial Councils of the Yukon and Northwest Territories in most of the fields of legislation covered by this publication. Labour Standards Ordinances, modelled on the Canada Labour Code, Part III (Labour Standards), with modifications to meet the particular requirements of the Territories, went into force July 1, 1968. The Ordinances established minimum standards of hours of work, wages, annual vacations and general holidays for employees in the Territories. Previous to the enactment of the Northwest Territories Ordinance, the only labour standards applicable were those established by mines legislation. Standards in the Yukon Ordinance replaced those previously laid down in the Yukon Labour (Minimum Wages) Ordinance, the Labour Provisions Ordinance and the Annual Vacations Ordinance.

The Commissioner of each Territory is to administer the Ordinance, with the advice and assistance of an Advisory Board, consisting of a chairman, an employers' representative and an employees' representative. Provision was made for the appointment of a Labour Standards Officer to administer the Ordinance, under the Commissioner's direction, and for the appointment of inspectors.

The Ordinances apply to employers and employees in any work, undertaking or business of a local or private nature in the Territory. The Northwest Territories Ordinance excludes domestic servants in private homes, trappers, persons engaged in commercial fisheries, and managers or superintendents or persons who exercise management functions. Members or students of designated professions may be excluded by regulations. The Yukon Ordinance applies generally but certain classes of employees are excluded from Part I governing hours of work.

### **Statutory School-Leaving Age**

In both Territories, a School Ordinance provides for compulsory school attendance to the age of 15. In the Northwest Territories, if a child reaches his 15th birthday after December 31, he must attend to the end of the school year. As in the provinces, a child may be exempted from school attendance if he is under instruction in some other satisfactory manner, if he is prevented from attending school for any unavoidable cause, or if he has reached a standard of education equal to or higher than that to be attained in the school. In the Northwest Territories, a child may be allowed to leave school before the statutory school-leaving age if he has completed Grade VIII or its equivalent. An exception is also permitted in the Northwest Territories in the case of a child who is unable to attend because of distance from school or lack of school accommodation.

### **Minimum Age for Employment**

Under a Mining Safety Ordinance in each Territory, the minimum age for employment below ground is 18 years and the minimum age for employment above ground, 16 years.

Under the Labour Standards Ordinances of both Territories, regulations may be made laying down conditions under which young persons under the age of 17 years may be employed.

### **Minimum Wages**

Both Ordinances require the payment of a minimum rate of wages to employees who are 17 years of age and over of \$1.50 an hour in the Northwest Territories and \$1.75 an hour in the Yukon Territory.

Employees paid on other than a time basis, such as pieceworkers and persons paid a mileage rate, are required to receive the equivalent of the minimum wage.

In the Northwest Territories, Labour Standards Regulations were issued under the Labour Standards Ordinance. Under these Regulations, an employee who is required to report for work must be paid a minimum of 4 hours' pay at his regular rate. The maximum deductions that may be made for board



and lodging are 50 cents a meal and 60 cents a day for lodging. An employee's wages must not be reduced below the minimum wage for meals supplied, the furnishing and upkeep of uniforms or for accidental breakages.

### **Hours of Work**

The Mining Safety Ordinances of both Territories provide for a maximum eight-hour day for work below ground in mines.

Under the Labour Standards Ordinance of the Northwest Territories, standard hours of work are 8 in a day and 48 in a week for most employees. Except in special circumstances, maximum hours are 10 in a day and 60 in a week.

Different standards are laid down for certain classes of employees. Standard hours of 208 in a month have been established for persons employed in exploration and development of metal mining and petroleum (including geophysical, geological, seismological and diamond drilling work), the transport of goods to and from isolated areas, and in tourist camps. For these employees, maximum hours are 260 in a month.

In the Yukon Territory, standard hours are 8 in a day and 48 in a week except for employees in shops, for whom standard hours of 8 in a day and 44 in a week are established. "Shop" is defined as an establishment where wholesale or retail trade is carried on or where services are dispensed to the public for profit. Maximum hours of work permitted are 10 in a day, 60 in a week and 260 in a month. Overtime beyond the limits of 8 and 48 hours is prohibited for employees engaged in mining operations underground in a shaft or tunnel.

In all cases where an employee is required or permitted to work in excess of standard hours, he must be paid one and one-half times his regular rate.

Averaging of hours over a period of two or more weeks is permitted under both Ordinances. The manner and circumstances in which averaging may be allowed are to be prescribed by regulations.

Exceptions from maximum hours are permitted in certain circumstances.

Where work in an industrial establishment is seasonal or intermittent in nature, the Commissioner, after having considered the nature of the establishment, the conditions of employment and the welfare of the employees, may issue an order permitting excess hours to be worked.

In the Northwest Territories, hours in excess of maximum hours (10 and 60 or 260, as the case may be) may be worked with a permit issued by the Labour Standards Officer, when the applicant has satisfied him that there are exceptional circumstances to justify the working of additional hours.

Under both Ordinances, maximum hours may be exceeded in an emergency due to an accident, breakdown in machinery or other unpreventable circumstances. Details of such emergency work must be reported (in the Yukon, only upon request).

The hours of work provisions of the Yukon Ordinance do not apply to members of the employer's family, individuals who search for minerals, travelling salesmen, domestic servants, farm labourers, and supervisory and managerial employees. Members and students of professions and other persons or classes of persons may be excluded by regulations.

Persons employed as hunting or fishing guides are exempted from the hours of work provisions of the Northwest Territories Ordinance.

### **Weekly Rest-Day**

Both Ordinances provide that, unless an exception is made by regulations, employees must be given at least one full day of rest in each week, and that the normal day of rest must be Sunday wherever practicable.

### **Annual Vacations with Pay**

Under both ordinances, employers are required to give their employees an annual vacation with pay of at least two weeks in respect of every completed year of employment.

A "year of employment" is defined as continuous employment of an employee by one employer for a period of 12 consecutive months beginning with the date employment began or any subsequent anniversary date.

Vacation pay is 4 per cent of the employee's wages for the year of employment in respect of which he is entitled to a vacation. The vacation must be granted not later than 10 months after the date on which the employee becomes entitled to it. Vacation pay must be given at least one day before the vacation is to begin or at an earlier date, if the regulations so prescribe.

The Yukon Ordinance provides that, if a general holiday occurs during an employee's vacation, the vacation is to be extended by one day in lieu of the holiday, and that the employee must be paid the wages to which he is entitled for the holiday, in addition to his vacation pay. The Northwest Territories Ordinance states that, where a general holiday occurs during an employee's vacation, the vacation is not to be extended, and no additional holiday or wages must be given to the employee.

When employment is terminated during a year, the employee is entitled to any vacation pay owing to him in respect of a previous completed year of employment and to 4 per cent of his wages for the period he has worked during the year. An employee is not entitled to vacation pay, however, unless he has been continuously employed for 30 days or more.

When a business changes hands, an employee is considered to have been in continuous employment before and after the transfer.

The Yukon Ordinance excludes from its annual vacation provisions employees who are members of the employer's family.

### **General Holidays**

In both Territories, employees are entitled to a holiday with pay in respect of each of the general holidays listed in the Ordinance. Both Ordinances provide for the same eight general holidays as are named in the federal Code but in the Yukon Ordinance a ninth holiday, Discovery Day, is provided for. Another holiday may be substituted for any of the listed holidays.

The Yukon Ordinance states that, where a general holiday falls on a Sunday, the Monday following is to be a holiday with pay.

The Labour Standards Officer may allow another holiday with pay to be substituted for a general holiday if another holiday is specified in a collective agreement or, where there is no collective agreement, if an employer applies for a substitution and the majority of the employees agree.

In the Northwest Territories, an employee is entitled to a holiday with pay only when a general holiday falls on a regular working day.

In the Northwest Territories, if an employee is required to work on a holiday, he must be paid his regular pay for the day and must, in addition, be paid at his regular rate of wages for the hours worked or he must be given a holiday with pay at a time convenient to him and his employer, not later than his next annual vacation or on termination of employment, whichever occurs first.

The Yukon Ordinance follows the Canada Labour Code Part III, (Labour Standards), in requiring, for work done on a holiday, payment of regular pay plus wages at the rate of time and one-half for the hours worked. This provision does not apply to custodial work or essential services as prescribed by regulations. A person employed in any such employment must be granted a holiday with pay at another time in lieu of a holiday on which he was required to work.

An employee who is not required to work on a general holiday must not be required to work on another day of that week that would otherwise be a non-working day, unless he is paid at least double his regular rate of wages in the Northwest Territories, or at least one and one-half times his regular rate of wages in the Yukon, for the time worked by him on that day.

The circumstances under which payment of holiday pay is not required differ in the Ordinances.

In the Yukon, an employee is not entitled to pay in respect of a holiday on which he does not work (a) if the holiday occurs in his first 30 days of employment with an employer, or (b) if he is not entitled to wages for at least 15 days in the 30 calendar days immediately preceding the holiday, or (c) if he has not worked an average of 24 hours a week during the four-week period immediately preceding the week in which the holiday falls (excluding any period of annual vacation), or (d) if he did not report for work on the holiday after having been called to work, or (e) if, without his employer's consent, he did not report for work on either the day preceding or the day following the holiday.

Under the Northwest Territories Ordinance, an employee is not entitled to be paid for a holiday if he has not worked for his employer for at least 30 days in the preceding 12 months. Other exceptions are the same as in (d) and (e) above.

### **Equal Pay**

The Northwest Territories Fair Practices Ordinance, which is a human rights code, also provides for equal pay for equal work. An employer is forbidden to pay a female employee at a lesser rate than the rate paid to a male employee for the same work done in the same establishment. A difference in rates based on a factor other than sex does not constitute discrimination.

This prohibition does not apply to employers who employ fewer than 5 employees, to domestic employment, or to non-profit charitable, philanthropic, educational, fraternal, religious or social organizations or those operated primarily to foster the welfare of a religious or racial group.

Enforcement is initiated by complaint of the aggrieved person to the officer appointed by the Commissioner of the Northwest Territories to deal with such matters. The Commissioner may then appoint an officer to inquire into the complaint. If settlement is not reached through conciliation, the officer must recommend to the Commissioner the action that should be taken with respect to the complaint. The Commissioner may issue whatever order he thinks necessary to put the recommendations into effect. A person affected by the order may appeal it within 10 days to a judge of the Territorial Court, whose decision is final.







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